SENATE—*Thursday, October 24, 1991*

(Legislative day of Thursday, September 19, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. ROBB].

PRAYER

The ACTING PRESIDENT pro tempore. We will begin with a word of prayer from the Chaplain.

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Preserve me, O God: for in thee do I put my trust.—Psalm 16:1.

Gracious God, this word from the Psalms, which appears on the Prayer Room stained glass window depicting George Washington kneeling in prayer, is a vivid reminder of the most basic need in our Nation at this time. The original sin in the garden was not drugs or crime or sex. It was man's self-alienation from God. The temptation was simply, "Be your own god." This was the root sin—man becoming his own god, making his own rules, determining his own destiny. From this rejection all other evil in human history derives. Self-alienation from God begets alienation between husband and wife, parent and child, management and labor, rich and poor, black and white. Self-alienation from God fragments society.

As George Washington put his trust in Thee—as Thomas Jefferson had faith in a Creator God from whom all human rights derive—so we as a people need to return to our roots. You promised, Lord, "If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land."—II Chronicles 7:14.

In the name of Him who loved us and gave Himself for us. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, the period for morning business today will extend until 11:15 a.m., during which time several Senators are to be recognized to address the Senate for specified times.

At 11:15 this morning, the Senate will proceed to the consideration of S. 1745, the Civil Rights Act. That measure will be considered until 2:30 p.m. today, when, by a previous consent agreement, the Senate will return to S. 596, the Federal Facilities Act.

Under the agreement governing S. 596, only two items remain for consideration prior to a vote on final passage of that act. Those matters are to be considered under a 1-hour time limitation. Then the Senate will conduct three back-to-back rollcall votes, beginning at 3:30 p.m. today, thereby completing action on the Federal facilities bill.

Once that bill is disposed of, the Senate will then resume consideration of the civil rights bill. Rollcall votes are expected to occur relative to amendments offered to that bill throughout the day, into the evening, and perhaps late into the evening today.

Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein.

The Chair recognizes the Senator from Montana [Mr. BAUCUS].

STRATOSPHERIC OZONE DEPLETION

Mr. BAUCUS. Mr. President, the sky may not be falling but there is getting to be a lot less of it than there once was.

For the second time in 6 months we have received disturbing news about the Earth's ozone layer from the international experts who are studying it.

In April we were told that between 4 to 5 percent of the wintertime ozone layer over North America, Europe, and the midlatitudes in both the northern and southern hemispheres had been destroyed in the last decade.

The Environmental Protection Agency reported that as a result, some 12 million Americans would develop skin cancer, and more than 200,000 of them would die, over the next 50 years.

At a press conference at the United Nations on Tuesday, these experts released new data showing a depletion of the ozone layer over the United States during the summertime months. I have with me the executive summary as well as press clips from the New York Times and the Washington Post on their announcement, which I ask unanimous consent to include in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. What is new and significant about their finding? For the first time, scientists have found that in the summertime over all of our country, the ozone layer decreases by 2 to 3 percent. We have substantially increased the risk of skin cancer and crop damage from ultraviolet radiation at precisely the time when school children are playing outdoors and crops begin to grow.

And we have only ourselves to blame. We have through our actions, changed the composition of our atmosphere. Because we have continued to vent ozone depleting chemicals into our air, despite the warnings of scientists, we have fundamentally changed our way of life for years to come. We and our children and our children's children will be forced to reevaluate our practices of going outside during the summertime months when our exposure to ultraviolet radiation is at a maximum.

The new results, in the words of EPA Administrator Reilly, are "more serious than we would have believed."

Mr. President, that has always been our response—when the Antarctic ozone "hole" was discovered, when it increased in magnitude, when ozone depletion expanded to the midlatitudes in the wintertime months and now that we are finding a summertime depletion as well—it is always more serious than we would have believed.

Now it is time for us to get serious. It is time to completely do away with these dangerous chemicals.

The Montreal protocol as amended by the London amendments of 1990 requires a complete phaseout of CFC's by the year 2000. Even though we now know that this is not fast enough, I would like to point out that the United States still has not ratified the London amendments. When I testified before the Foreign Relations Committee in July on the ratification of the London amendments, I urged my colleagues to move with haste. The need for expediency has grown stronger. As a show of good faith, the United States must quickly ratify the London amendments.

But we must go further. Ozone depleting chemicals must be phased out on an accelerated timeframe.

The mechanism to do so already exists. The Clean Air Act requires the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

EPA Administrator to accelerate the phaseout of ozone depleting chemicals more rapidly than the year 2000 deadline, if scientific information suggests it is necessary to protect human health and the environment.

Thus far, the Administrator has refused to act on his authority, saying that the United States would not take unilateral action.

Mr. President, that is a nonargument. Let me remind my colleagues that all of the industrialized countries, with the exception of the United States and Japan, have committed to an earlier phaseout of ozone depleting chemicals. Germany and the Nordic countries have accelerated their phaseout date to 1995; the European Community, Canada, Australia, and New Zealand are committed to 1997.

For ourselves, our children, and our children's children, the United States must take action too.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, Oct. 23, 1991]

FIRST SUMMER THINNING FOUND IN U.S. OZONE LAYER—SKIN CANCER RISK INCREASES, EXPERTS SAY

(By Michael Weisskopf)

Scientists reported yesterday the first summertime thinning of the protective ozone layer over the United States, raising the risk of skin cancer as heavier doses of ultraviolet radiation leak to the ground during the time of year when people are most exposed.

E.I. du Pont de Nemours, the world's largest producer of chlorofluorocarbons (CFCs), the most damaging of the man-made chemicals to ozone, responded to the new data by pledging to halt production of the chemicals by 1997—three years ahead of schedule—and to speed the phaseout of substitutes that are less destructive than CFCs but still capable of fraying the ozone layer.

"The data included in this recent assessment underscore the urgency for a more rapid and aggressive response," Du Pont vice president Joseph Glas said in a statement to the media.

Along with a report in April that wintertime ozone has thinned twice as fast as previously projected, yesterday's data is expected also to fuel diplomatic efforts to accelerate the timetable of an international treaty calling for the phaseout CFCs at least by the turn of the century.

"The problem is more serious than we believed," said Environmental Protection Agency Administrator William K. Reilly. "The world community needs to reconsider the course that it's on, as to whether it's fast enough and whether substitutes can be brought on more quickly."

A vaporous veil lying 15 miles above the surface, ozone shields life on Earth from the damaging effects of ultraviolet rays. Yesterday's findings of significant depletion between May and September when people wear less clothing and spend more time outdoors deepens concerns about skin cancer, experts said.

EPA officials said they factored in possible summertime erosion of ozone in last April's projection of a near-doubling of skin cancer cases and deaths over the next 40 years. According to the American Cancer Society, there are now more than 600,000 cases of skin cancer a year in the United States and nearly 9,000 deaths.

According to Edward De Fabo, a photobiologist at George Washington University Medical Center, the increased doses of solar rays during the growing season could endanger certain crops and jeopardize planktonic organisms at the base of the oceanic food chain.

Yesterday's report was based on what is considered the most comprehensive data gathered since monitoring of the ozone layer began in 1985.

Readings were taken by National Aeronautics and Space Administration satellites and ground-based spectrometers, and the data were analyzed by a panel of international scientists that was convened by the United Nations Environment Program and the World Meterological Organization.

The data confirmed earlier findings of winter ozone depletion as high as 5.6 percent in the Northern Hemisphere, including the United States and Western Europe.

But for the first time, the instruments recorded summertime depletion of 2.9 percent to 3.3 percent at latitudes reaching roughly from Florida in the south to central Canada in the north.

According to Jack Kaye, manager of NASA's atmospheric chemistry modeling and analysis program, scientists are uncertain whether the summertime findings result from refinement in analytical tools or from increased atmospheric levels of chlorine, which comes from the breakdown of CFCs and destroys ozone molecules.

He said some scientists believe the destructive chemical reactions may be catalyzed not only by polar ice clouds interacting with the chemicals in the winter but also by sulfate particles all year long. Sulfates, put into the air by volcanoes and burning fossil fuels, may remove some of the nitrogen compounds that suppress the activity of chlorine, he said.

In another important finding, scientists discovered that ozone loss in the lower stratosphere has a cooling effect on global temperatures, apparently countering the warming effect created by CFCs.

[From the New York Times, Oct. 23, 1991]

SUMMERTIME HARM TO SHIELD OF OZONE DETECTED OVER UNITED STATES—NEW PERIL, SCIENTISTS SAY

(By William K. Stevens)

UNITED NATIONS, Oct. 22.—For the first time, scientists have found the earth's protective ozone shield to be weakened over the United States and other temperate-zone countries in summer, when the sun's harmful ultraviolet rays are the strongest and pose the greatest danger to people and crops.

Since this summertime depletion of the ozone shield was not known until now, predicted increases in skin cancers and crop damage are too low, an international panel of scientists convened by the United Nations said here today.

Furthermore, they said, the rate of ozone depletion has accelerated and will continue at the higher rate in the 1990's, requiring a more rapid phasing out of chlorofluorocarbons, halons and other manmade chemicals that destroy ozone high in the atmosphere.

STRICTER CONTROLS TO BE SOUGHT

United Nations officials said they would seek to reopen international discussions next year in an effort to speed up abandonment of the ozone-eating chemicals for the second time since controls on them were first adopted in 1987. As of now, developed countries have agreed to phase them out by the year 2000 and developing countries by 2010.

Until recently, scientists believed on the basis of measurements from satellites that ozone depletion was taking place only over the poles, and in the middle latitudes in winter. The depletion is worse nearer the poles, and worst of all over the Antarctic, with its ozone "hole."

"We now see a significant decrease of ozone both in the Northern and Southern Hemispheres not only in winter, but in spring and summer, the time when people sunbathe, putting them at risk for skin cancer, and the time we grow crops," said Dr. Robert Watson, a National Aeronautics and Space Administration scientist who is cochairman of an 80-member group of scientists from 80 countries who have been assessing ozone trends. He said the situation was "extremely serious."

Chlorofluorocarbons and other ozone-destroying chemicals are used in a wide variety of industrial and consumer applications, including refrigeration and air conditioning, and halons are used in fire extinguishers.

The chemicals take years to waft up to the upper atmosphere. There, they touch off chemical reactions that lead to the destruction of the ozone, which screens out harmful frequencies of ultraviolet radiation. Unscreened, the rays can cause cancer and cataracts, harm some crops and other plants and, scientists fear, disrupt the feeding patterns of marine life.

Dr. Mostafa K. Tolba, executive director of the United Nations Environment Program, called the findings "very disturbing" and said there was "definitely a need for a quick response" and for a reopening of international talks on the subject. They spoke at a news conference here today.

Besides destroying ozone, chlorofluorocarbons, or CFC's, are among several gases that trap heat in the atmosphere. In another new finding, the scientists reported that the ozone depletion may have a cooling effect, offsetting part of the global warming trend that some scientists fear may already have begun. If this finding is confirmed, restoring atmospheric ozone levels could increase global warming.

The finding could undercut the Bush Administration's position on global warming. The Administration has sought to avoid making possibly costly cuts in carbon dioxide emissions by insisting that actions it is taking to reduce CFC's are sufficient for the next decade or more. Dr. Tolba, under whose leadership the ozone and the climate talks are taking place, said that these findings showed clearly that "the main emphasis should be on carbon dioxide."

ADMINISTRATION DEFENDS POLICY

But William K. Reilly, the administrator of the Environmental Protection Agency, said today that unexpected findings vindicated the Administration's policy of emphasizing research rather than immediate action on global warming. "What had been thought was a major greenhouse gas turns out in fact to be having a cooling effect," he said.

The United States, along with other industrialized countries, has agreed to phase out CFC's by the end of this decade, and Mr. Reilly said the country was ahead of schedule. And today, the Du Pont Company, the world's largest manufacturer of CFC's and halons, announced that in response to the new scientific report it was accelerating its phaseout of the chemicals by three to five years. In 1988 the company pledged to eliminate them by 2000.

In April, the Environmental Protection Agency reported that over the previous dec-

ade, ozone declined by 4.5 to 5 percent over the United States and other Northern Hemisphere countries in the winter and early spring. Agency analysts calculated that as a result, some 12 million Americans would develop skin cancer, and more than 200,000 of them would die, over the next 50 years.

The United Nations analysis, which includes more recent data and independent information from satellites and ground-based instruments, shows that from May through August, high-atmosphere ozone in the Northern Hemisphere temperate zones decreased by about 3 percent in the 1980's. This is about triple the rate of the 1970's. Similarly, the analysis showed a decrease of about 5 percent in the Southern Hemisphere summer, from December through March.

Because CFC's are still rising slowly to the ozone layer and will be for some years, Dr. Watson said, "we believe there will be an additional 3 percent ozone loss between now and the end of the century" in the northern latitudes, which include Europe and North America, and in the Southern Hemisphere's temperate zones. Only in the tropics was no significant increase detected.

The scientists did not calculate how many additional cancer deaths might result from the summer ozone depletion. But Dr. Watson said that with the form of skin cancer called melanoma, which is often fatal, there would be about a 1 percent increase in cases for every 1 percent of ozone depletion. For other skin cancers, which are less often fatal, each 1 percent of ozone depletion brings a 3 percent increase in cases, he said.

EXECUTIVE SUMMARY ON THE SCIENTIFIC ASSESSMENT OF STRATOSPHERIC OZONE OCTOBER 22, 1991

RECENT MAJOR SCIENTIFIC FINDINGS

Over the past few years, there have been highly significant advances in the understanding of the impact of human activities on the Earth's stratospheric ozone layer and the influence of changes in chemical composition on the radiative balance of the climate system. Specifically, since the last international scientific review (1989), there have been five major advances:

Global Ozone Decreases: Ground-based and satellite observations continue to show decreases of total column ozone in winter in the northern hemisphere. For the first time, there is evidence of significant decreases in spring and summer in both the northern and southern hemispheres at middle and high latitudes, as well as in the southern winter. No trends in ozone have been observed in the tropics. These downward trends were larger during the 1980s than in the 1970s. The observed ozone decreases have occurred predominantly in the lower stratosphere.

Polar Ozone: Strong Antarctic ozone holes have continued to occur and, in four of the past five years, have been deep and extensive in area. This contrasts to the situation in the mid-1980s, where the depth and area of the ozone hole exhibited a quasi-biennial modulation. Large increases in surface ultraviolet radiation have been observed in Antarctica during periods of low ozone. While no extensive ozone losses have occurred in the Arctic comparable to those observed in the Antarctic, localized Arctic ozone losses have been observed in winter concurrent with observations of elevated levels or reactive chlorine.

Ozone and Industrial Halocarbons: Recent laboratory research and re-interpretation of field measurements have strengthened the evidence that the Antarctic ozone hole is primarily due to chlorine- and bromine-containing chemicals. In addition, the weight of evidence suggests that the observed middle- and high-latitude ozone losses are largely due to chlorine and bromine. Therefore, as the atmospheric abundances of chlorine and bromine increase in the future, significant additional losses of ozone are expected at middle latitudes and in the Arctic.

Ozone and Climate Relations: For the first time, the observed global lower-stratospheric ozone depletions have been used to calculate the changes in the radiative balance of the atmosphere. The results indicate that, over the last decade, the observed ozone depletions would have tended to cool the lower stratosphere at middle and high latitudes. Temperature data suggest that some cooling indeed has taken place there. The observed lower-stratospheric ozone changes and calculated temperature changes would have caused a decrease in the radiative forcing of the surface-troposphere system in the middle- to high-latitudes that is larger in magnitude than that predicted for the CFC increases over the last decade. In addition, the ozone depletion may indeed have offset a significant fraction of the radiative forcing due to increases of all greenhouse gases over the past decade.

Ozone Depletion and Global Warning Potentials (ODPs and GWPs): A new semi-empirical, observation-based method of calculating ODPs has better quantified the role of polar processes in this index. In addition, the direct GWPs for tropospheric, well-mixed, radiatively active species have been recalculated. However, because of the incomplete understanding of tropospheric chemical processes, the indirect GWP of methane has not, at present, been quantified reliably. Furthermore, the concept of a GWP may prove inapplicable for the very short-lived, inhomogeneously mixed gases, such as the nitrogen oxides. Hence, many of the indirect GWPs reported in 1990 by the Intergovernmental Panel on Climate Change (IPCC) are likely to be incorrect.

SUPPORTING EVIDENCE AND RELATED ISSUES

Global ozone

Independent observations from the ground-based Dobson and M-83/124 instruments and the TOMS satellite instrument all show, for the first time, that there are significant decreases in total-column ozone, after accounting for known natural variability, in winter and now in spring and summer in both the northern and southern hemispheres at middle and high latitudes, but not in the tropics. The following table illustrates some of these points.

TOTAL OZONE TRENDS

[Percent per decade with 95 percent confidence limits]

Season	TOMS: 1979–91		
	45°S	Equator	45°N
December to March	−5.2±1.5	+0.3±4.5	−5.6±3.5
May to August	−6.2±3.0	+0.1±5.2	−2.9±2.1
September to November	−4.4±3.2	+0.3±5.0	−1.7±1.9

Season	Ground-based: 26°N–64°N	
	1979–91	1970–91
December to March	−4.7±0.9	−2.7±0.7
May to August	−3.3±1.2	−1.3±0.4
September to November	−1.2±1.6	−1.2±0.6

There is strong *combined* observational evidence from balloonsondes, ground-based Umkehr, and the SAGE satellite instruments that, over the past decade, annual-average ozone has decreased in the middle- and high-latitude stratosphere below 25 km (about 10% near 20 km).

Ozone losses in the upper stratosphere have been observed by ground-based Umkehr and SAGE satellite instruments. Changes in the shape of the vertical distribution of ozone near 40 km are qualitatively consistent with theoretical predictions, but are smaller in magnitude.

Measurements indicate that ozone levels in the troposphere up to 10 km above the few existing balloonsonde stations at northern middle latitudes have increased by about 10% per decade over the past two decades. However, the data base for ozone trends in the upper troposphere, where it is an effective greenhouse gas, are sparse and inadequate for quantifying its contribution to the global radiative balance. It should be noted that the response of ozone in the upper troposphere is particularly sensitive to oxides of nitrogen injected by aircraft.

The temperature record indicates that a small cooling (about 0.3°C per decade, globally averaged) has occurred in the lower stratosphere over the last two decades, which is in the sense of that expected from the observed ozone change.

Increases continue in the atmospheric abundances of source gases that affect ozone and the radiative balance. Although methane has continued to increase in the atmosphere, the rate of increase has slowed, for reasons that are not understood. Methyl bromide is the major contributor to stratospheric bromide (15 pptv). The sources of methyl bromide are not well characterized; however, significant anthropogenic emissions have been suggested.

Recent laboratory studies have identified key heterogeneous reactions and have allowed a more quantitative assessment of the role of global stratospheric sulfate aerosols in leading to enhanced abundances of reactive chlorine species.

Limited observations suggest that the abundance of chlorine monoxide (ClO) in the lower stratosphere at northern middle latitudes is greater than that predicted by models containing only currently known gas-phase chemistry, and the observed seasonal and latitudinal dependences are inconsistent with those predicted. Some new studies that incorporate currently known heterogeneous processes provide an improved simulation for some observed gases, such as ClO and nitric acid.

Present models containing only gas-phase processes cannot simulate the observed seasonal ozone depletions at middle and high latitudes. However, models incorporating currently known heterogeneous processes on sulfate aerosols predict substantially greater ozone depletion (e.g., a factor of 2–3 at middle latitudes) from chlorine and bromine compounds compared to models containing only gas-phase processes. Indeed, the heterogeneous models simulate most of the observed trend of column ozone in middle latitudes in summer, but only about half of that in winter.

There is not a full accounting of the observed downward trends in global ozone. Plausible mechanisms include (i) local heterogeneous chemistry on stratospheric sulfate aerosols (as evidenced by, for example, elevated levels of ClO and the presence of sulfate aerosols at the altitudes of the observed ozone depletion) and (ii) the transport of both ozone-depleted and chemically perturbed polar air to middle latitudes (as evidenced by high levels of reactive chlorine and low levels of reactive nitrogen, which is a characteristic of chemically perturbed polar air). Although other possible mechanisms cannot be ruled out, those involving

chlorine and bromine appear to be largely responsible for the ozone loss and are the only ones for which direct evidence exists.

Since the middle latitude ozone losses are apparently due in large part to chlorine and bromine, greater ozone losses are expected as long as the atmospheric levels of these compounds continue to increase. With the increases in the levels of chlorine and bromine that are estimated for the year 2000, the additional ozone losses during the 1990s are expected to be comparable to those already observed for the 1980s.

There are numerous ways in which further increases in stratospheric halogen abundances can be reduced. The table below illustrates the effects of reducing the emissions of several types of halocarbons. Four aspects are shown: (i) the change in peak chlorine loading, (ii) the times at which chlorine abundances have decreased back to 2 ppbv (the abundance in the late 1970s, which is when the Antarctic ozone hole started and when the accelerated trends in total-column ozone losses in the northern hemisphere began); (iii) the times at which chlorine abundances have decreased back to 3 ppbv (the abundance in the mid-late 1980s); and (iv) a measure of the cumulative ozone loss for the time period that the chlorine levels are above 3 ppbv. All of the values in the table are relative to the reference scenario (AA).

SCENARIOS FOR REDUCING CHLORINE EMISSIONS

Scenario	Peak Cl (ppbv)	Year at 3 ppbv	Year at 2 ppbv	Integral (Cl> 3 ppbv)
AA	4.1	2027	2060	[1] 22.7
AA3	−.18	−10	−7	−7.6
D	−.03	0	0	−1.3
D3	−.10	0	0	−2.9
E	.00	−7	−3	[2] −2.0
E3	[2] −.03	−10	−3	[2] −4.4
F20	+.01	0	0	+.8
F40	+.02	+1	0	+1.5
G20	+.01	+5	+2	+4.2
AA+D3	−.21	−11	−7	−10.4

[1] Ppbv=yr.
[2] These values should be reduced by a factor of about 2–3 when evaluating ozone loss rather than chlorine loading.

Definitions of scenarios: AA: Montreal Protocol (10 yr lag of 10% of CFC_s plus CCl_4; no lag for CH_3CCl_3 and Halons). HCFC–22 increases at 3% per year from 1991 to 2020, ramps to 0 by 2040. No substitution of CFC_s with HCFCs.

Non-substitution scenarios: AA3: 3 year acceleration of CFC_s and CCl_4 schedules. D: 3 year acceleration of CH_3CCl_3 schedule. D3: CH_3CCl_3 on the accelerated CFC phase-out schedule. E: HCFC–22 ramp to zero between 2000 and 2020. E3: HCFC–22 on the accelerated CFC phase-out schedule.

Substitution scenarios: HCFC substitutions begin in 1995, no growth to 2000, 3% per year to 2020, ramp to zero by 2030. HCFC–A has a 2 year lifetime, one chlorine, and an ODP of 0.013. HCFC–B has a 20 year lifetime, one chlorine, and an ODP of 0.13. F20: 20% initial substitution, HCFC–A. F40: 40% initial substitution, HCFC–A. G20: 20% initial substitution, HCFC–B.

Stratospheric bromine is 30–120 times more efficient than stratospheric chlorine in destroying ozone on a per atom basis. Therefore, 1 pptv of stratospheric bromine is equivalent to 0.03–0.12 ppbv of stratospheric chlorine.

Polar ozone

The Antarctic ozone hole in 1991 was as deep and as extensive in area as those of 1987, 1989, and 1990. The low value of total-column ozone measured by TOMS in early October in 1991 was 110 Dobson units, which is a decrease of about 60% compared to the ozone levels prior to the late 1970s. The previously noted quasi-biennial modulation of the severity of the ozone hole did not occur during the past three years. This apparent lack of variability in recent years may imply that halogen chemistry is becoming dominant over dynamically induced fluctuations on Antarctic ozone depletion.

Recent laboratory studies of heterogeneous processes, reevaluated field measurements, and modeling studies have strengthened the confidence that the cause of the Antarctic ozone hole is primarily chlorine and bromine emissions.

High concentrations of ClO have been observed in winter in the Arctic stratosphere between 16–20 km. These observations have been incorporated into diagnostic models that have calculated localized ozone depletions of about 10% at these altitudes over a period of about a month, which are consistent with concurrent ozone measurements.

Ozone/climate relations

The ozone losses observed in the lower stratosphere over the last decade are predicted to have increased the visible and ultraviolet incoming solar radiation reaching the surface/troposphere system and decreased the downward infrared radiation reaching the surface/troposphere system. For models that allow for the temperature of the stratosphere to adjust to the loss of ozone, the net effect is a decrease in radiative forcing. For middle and high latitudes throughout the year, the magnitude of this decrease may be larger than the predicted increases in the radiative forcing due to the increased abundances of CFCs over the last decade. Indeed, this ozone-induced decreases in radiative forcing could be offsetting a significant fraction of the increased forcing attributed to the increases in the abundances of all greenhouse gases over the same period. Changes in the global annual-average radiative forcing due to the observed ozone depletion are predicted to be comparable in magnitude, but opposite in sign, to those attributed to the CFCs over the last decade.

Current tropospheric models exhibit large differences in their predictions of changes in ozone, the hydroxyl radical, and other chemically active gases due to emissions of methane, nonmethane hydrocarbons, carbon monoxide, and nitrogen oxides. This arises from uncertainties in the knowledge of background chemical composition and an inadequate understanding of chemical reactions and dynamical processes. Hence, these deficiencies limit the accuracy of predicted changes in the abundance and distribution of tropospheric ozone, which is a greenhouse gas, and in the lifetimes of a number of other greenhouse gases, including the HCFCs and HFCs, which depend upon the abundance of the hydroxyl radical.

Ozone depletion and global warming potentials (ODPs and GWPs)

Steady-state and time-dependent ODPs have been recalculated with improved models that have incorporated more-accurate reaction rate coefficients and absorption cross sections and known heterogeneous processes on sulfate aerosols. The numerical values are generally similar to those in previous assessments.

A new semi-empirical, observation-based method of calculating ODPs has been developed. The resulting values are generally larger (up to a factor of two as compared to some model-based estimates) for species with long stratospheric lifetimes (e.g., HCFC–22 and HCFC–142b) and slightly smaller for species with short stratospheric lifetimes (e.g., carbon tetrachloride and methyl chloroform). Since this approach utilizes more atmospheric observations and less model calculations in characterizing polar ozone losses, it is considered to be better than standard model ODPs, at least in the polar regions.

The direct GWPs (with five different time horizons: 20, 50, 100, 200, and 500 years) for tropospheric, well-mixed, radiatively active species have been recalculated using updated lifetimes for methane, nitrous oxide, and the halocarbons and following the same methodology of IPCC (1990). With the exception of methane, new GWP results indicate only modest changes from the IPCC values, but uncertainties still exist in these calculations due to limitations in knowledge of the carbon cycle.

Because of incomplete understanding of tropospheric chemical processes, the indirect GWP of methane has not been quantified reliably at the time of this report, although improvements and quantifications of uncertainties in the near future are highly likely. The signs of the net changes in radiative forcing from known indirect effects have been established for some of the trace gases: methane, carbon monoxide, and nonmethane hydrocarbons, which are all positive. The sign of the changes in radiative forcing due to the nitrogen oxides cannot currently be established. Furthermore, the basic concept of a GWP may indeed prove to be inappropriate for the very short-lived, inhomogeneously mixed gases, such as the nitrogen oxides and the nonmethane hydrocarbons. Hence, the IPCC (1990) indirect GWPs are not only uncertain, but many are also likely to be incorrect (e.g., for the nitrogen oxides).

Related issues

Ultraviolet radiation: Significant increases in ultraviolet radiation have been observed over Antarctica in conjunction with periods of intense ozone depletion. Under clear-sky conditions, these increases are consistent with theoretical predications. Furthermore, a Erythemal Radiative Amplification Factor of 1.25 ± 0.20 has been deduced from simultaneous measurements of column ozone and surface ultraviolet radiation at a clean air site, which is in agreement with a model-calculated value of 1.1. Therefore, for the first time, the response of ground-level ultraviolet radiation to changes in column ozone has been observed and quantified.

Supersonic aircraft: A previous, independent assessment of the impact of a projected fleet of supersonic aircraft on stratospheric ozone has reported the prediction that the ozone loss increases with the amount of nitrogen oxides emitted. These models used gas-phase chemistry and assessed ozone loss for the case of 500 aircraft flying at Mach 2.4 between 17–20 km with an annual fuel use of 7×10^{10} kg/yr. The annual-average loss of column ozone at middle latitudes in the northern hemisphere is predicted to be 2–6%. For a comparable fleet operated at Mach 3.2 between 21–24 km, the comparable column ozone losses are 7–12%. However, recent evidence has shown that reactions on sulfate aerosols can change the partitioning of nitrogen oxides. Two model studies incorporating this heterogeneous chemistry have recently reexamined the Mach 2.4 case and found substantially less ozone change (−0.5% to +0.5%). These implications are being examined as part of a separate assessment.

Shuttles and rockets: The increase in the abundance of stratospheric chlorine from one projection of U.S. annual launches of nine Space Shuttles and six Titan rockets is cal-

culated to be less than 0.25% of the annual stratospheric chlorine source from halocarbons in the present day atmosphere (with maximum increases of 0.01 ppbv in the middle and upper stratosphere in the northern middle and high latitudes). The TOMS ozone record shows no detectable changes in column ozone immediately following each of several launches of the Space Shuttle.

Volcanoes, ozone loss, and climate perturbations: Major volcanic eruptions, such as Mt. Pinatubo, substantially increase the stratospheric abundance of sulfate aerosols for a few years. Since laboratory and field data show that heterogeneous processes can lead to increased levels of reactive chlorine in the stratosphere, such injections have the potential to increase ozone losses temporarily. Furthermore, the increased levels of stratospheric sulfate aerosols are predicted to warm the lower stratosphere by about 4°C (which has been observed) and cool the Earth's surface by a much smaller amount.

Tropospheric sulfate aerosols and climate: Fossil fuel emissions over the past century have increased the tropospheric sulfate aerosol concentration. Their contribution to the direct radiative forcing of the clear-sky northern hemisphere is opposite to that due to the greenhouse gases and is estimated to be a substantial fraction of the trace gas forcing.

IMPLICATIONS FOR POLICY FORMULATIONS

The findings and conclusions of the research of the past few years have several major implications as input to policy decisions regarding human-influenced substances that lead to stratospheric ozone depletions and to changes in the radiative forcing of the climate system:

Continued global ozone losses: Even if the control measures of the amended Montreal Protocol (London, 1990) were to be implemented by all nations, the current abundance of stratospheric chlorine (3.3–3.5 ppbv) is estimated to increase during the next several years, reaching a peak of about 4.1 ppbv around the turn of the century. With these increases, the additional middle-latitude ozone losses during the 1990s are expected to be comparable to those observed during the 1980s, and there is the possibility of incurring wide-spread losses in the Arctic. Reducing these expected and possible ozone losses requires further limitations on the emissions of chlorine- and bromine-containing compounds.

Approaches to lowering global risks: Lowering the peak and hastening the subsequent decline of chlorine and bromine levels can be accomplished in a variety of ways, including an accelerated phase-out of controlled substances and limitations on currently uncontrolled halocarbons. *Chlorine.* A significant reduction in peak chlorine loading (a few tenths of a ppbv) can be achieved with accelerated phase-out schedules of CFCs, carbon tetrachloride, and methyl chloroform. Even stringent controls on HCFC–22 would not significantly reduce peak chlorine loading (at most 0.03 ppbv, especially when ODP weighted), but do hasten the decline of chlorine. *Bromine.* A 3-year acceleration of the phase-out schedule for the Halons would reduce peak bromine loading by about 1 pptv. If the anthropogenic sources of methyl bromide are significant and their emissions can be reduced, then *each* 10% reduction in methyl bromide would rapidly result in a decrease in stratospheric bromine of 1.5 pptv, which is equivalent to a reduction in stratospheric chlorine of 0.045 to 0.18 ppbv. This gain is comparable to that of a three-year acceleration of the scheduled phase-out of the CFCs.

Elimination of the Antarctic ozone hole: The phase-out schedule of the amended Montreal Protocol, if fully complied by all nations *and* if there are no *continued* uses of HCFCs, affords the opportunity to return to stratospheric chlorine abundances of 2 ppbv sometime between the middle and the end of the next century. This is the level at which the Antarctic ozone hole appeared in the late 1970s and hence is about the level that is thought to be necessary (other conditions assumed constant, including bromine loading) to eliminate the ozone hole. Such levels could never have been reached under the provisions of the original Protocol (Montreal, 1987).

Uncertain greenhouse role of CFCs: The weight of evidence suggests that a large part of the observed lower stratospheric decrease in ozone is the result of CFC emissions. Furthermore, the radiative impact of this ozone decrease may have largely offset the predicted direct radiative perturbations, at middle to high latitudes, due to the CFCs increases over the last decade. Hence, even the sign of the overall radiative effect of CFC increases on the climate system over the last decade is uncertain.

Utility of GWPs: The direct GWPs are a useful indicator of the relative radiative effects of long-lived, well-mixed, radiatively active truce species. However, GWPs may be inapplicable for comparing the direct radiative effects of a long-lived, well-mixed gas to the indirect effects of a short-lived gas (for example, carbon dioxide to the nitrogen oxides). For the latter need, the application of new tools, such as three-dimensional, fully coupled chemistry-climate models may be required.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COST UNDERWRITING FOR RESEARCH EXPANSION NIH

Mr. REID. Mr. President, it is the "in thing" today, it is vogue to run down Government, to talk about what is bad in Government. This morning, I want to spend a few minutes talking about something regarding which the American public should be proud, the Congress should be proud, and the executive branch of Government should be happy: the National Institutes of Health.

I invite everyone's attention to these great centers of learning, these great centers of healing that we have here in the Washington, DC, area.

Last spring, I visited the National Institutes of Health, and had a tour through these facilities. These institutes carry out research, medically directed. They do different types of work. The medical discoveries made at NIH are seemingly miraculous. The work that they have done in diabetes research, juvenile diabetes research, the work they have done with all different forms of cancer, the work they have started now in diseases directed toward women, the work that they have done dealing with paralysis, is really miraculous. In many of these areas about which I have spoken, they are on the verge of accomplishing things even more miraculous.

But the one thing that all the institutes have in common is that they are short of researchers. They do not have enough people to do the work that needs to be done. There are a lot of reasons for this, but one is that they cannot pay the private sector salaries. The institutes frequently have difficulty filing these positions, because they cannot match pay in the private sector.

Mr. President, I have here a letter that was directed to me. It is from the Director of the Office of Education of the National Institutes of Health, Michael Fordis, M.D.

After I left the National Institutes of Health and completed my tour, I met with the staff there, and I said that the problem we have to address at these great centers of learning is how to get the best and the brightest from our medical schools, from our research institutes, our institutes that teach people medical research. We have to get them to the National Institutes of Health.

The National Institutes of Health is, without any question, the leading institution in medical research in the world. No one would debate that. It would not matter what country you are in, or what part of our country you are in. It is the leader of medical research in the world, the National Institutes of Health. And because that is the case, we want to get the best people there to continue the great work that has been done there.

Well, we discussed what could be done. Here is a letter that I recently received from Dr. Fordis. I am not going to read the whole letter, but I will read parts of it, Mr. President.

Indeed, your impression that the NIH has faced serious shortages is quite correct. Just last year, nearly one out of four entry-level positions for young physicians was vacant.

* * *

Because of the lack of physicians seeking research training—

For example—

the endocrinology and metabolism training program, which has been responsible for significant discoveries has produced many of the preeminent academic endocrinologists in ths country, is facing serious difficulties in maintaining its high quality clinical research program. The number of clinical research training positions has been reduced nearly in half. Other productive clinical research programs similarly affected include medical oncology, pediatric oncology, and pulmonary medicine, among others.

They have had to cut the number of people doing research in half, because

they do not have the scientists to do that work.

The doctor continued:

Young physicians, interested in academic medicine, often must undergo significant hardships to pursue careers in biomedical research. Moreover, we are closely approaching the time when a desire and determination may not be enough to enable talented young people to enter academic careers. For example, I recently met two married medical students interested in careers in biomedical research. Each of these students has a Ph.D. from Harvard. They left Boston to attend medical school in Ohio in order to minimize their educational debt.

Here are two brilliant young people who have Ph.D.'s, and they also wanted medical degrees. They could not live in the Northeast; it was too expensive. And they went someplace else to get the medical degrees.

They left Boston to attend medical school in Ohio in order to minimize their educational debt. That notwithstanding, their current debt is $90,000 to $100,000 apiece.

Such debt is not uncommon today when the average debt is over $40,000 and approaching $50,000.

Thus, the couple I mentioned above may not find it economically possible to pursue the extended research training required for a career in bomedical research, particularly when academic salaries may not be comparable to those of physicians in private practice. Repayment schedules may require young physicians to pay literally thousands of dollars per month during their preparation at the NIH for careers in biomedical research. Trainees facing arduous repayment schedules can no longer make decisions regarding their careers solely on the basis of wanting to serve humanity in areas of scientific promise. Many young physicians feel compelled to complete clinical training as expeditiously as possible and must look to meeting their financial obligations.

He goes on to state some of the other problems that exist.

What we did, as a body, Mr. President, is recognize that in the field of AIDS research, we were having a tremendous problem. We could not get scientists to come and study at NIH even though there was money for them to do the research, because they simply could not afford to stay there and pay off the huge debts they had acquired while going to medical school and receiving their training.

So Congress and the President developed a program. To allow scientists who would come and study and do AIDS research, a program was developed to attract research to the areas of AIDS. It is called the AIDS Loan Repayment Program and it speaks for itself. If people are willing to devote the best years of their life to medical research, we would develop for them a program to help repay their debt.

Mr. President, we have to broaden this program. To attract the critically needed researchers that we need, NIH needs to develop a program that is comparable to what we are doing with AIDS research and we would repay a predetermined amount of scientists' education loans.

So I want to extend this excellent program that we have in AIDS research to other areas that are in need of researchers.

It is hard to believe an institution as prestigious as the National Institutes of Health would have difficulty recruiting researchers but, as indicated in this letter that I have read, last year 25 percent of the positions at the entry level simply went unfilled. That is wrong.

Medical research is the one area, I repeat, in which there is no question but the United States leads the world. We have to continue to do whatever is necessary to make sure that we maintain our preeminent field in the area of medical research.

The shortages of researchers at NIH extend across so many areas that expanding the AIDS Loan Repayment Program is not going to be enough. We need to recruit more men and women to do work on AIDS. We are accomplishing that by the AIDS Loan Repayment Program, but we need to broaden this.

As the National Institutes of Health is reauthorized this Congress, I urge my colleagues to support the legislation about which I have spoken and in particular by ensuring that the Institutes remain capable of attracking the best research personnel available.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Delaware [Mr. ROTH].

Under the previous order the Senator is recognized to speak up to 30 minutes.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 1865 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

THE MASS SHOOTING IN TEXAS

Mr. CHAFEE. Mr. President, I was sickened, as were all Americans, by the ghastly killings that took place on Wednesday of last week in Killeen, TX. It was lunchtime. A man drove a pickup truck into the glass window of a popular, crowded cafeteria. He got out of the cab of the truck and immediately began shooting the patrons at random as they moved or ran to get out of the restaurant. Twenty-two people were killed before the police arrived and the murderer was killed, apparently by his own hand.

What do we say about this latest act of carnage? Luby's Cafeteria, a popular eating and gathering place, was particularly full on that Wednesday, since many employees were taking their employers out for lunch to celebrate Boss' Day. A pleasant, ordinary weekday lunchtime scene in an ordinary workweek, grotesquely and horribly interrupted by a man with tons of ammo shooting as fast as he could pull the trigger, according to witnesses. In the aftermath: dazed and shocked blood-soaked survivors, and a room covered in shattered glass, blood, and slumped bodies.

This scene is so unutterably horrifying, so grotesque, that it has an almost surreal quality to it.

Mr. President, there is something wrong in our country when a local cafeteria becomes a battleground. I am not sure the word "battleground" is correct. A battle indicates there is combat, one side resisting another. This was a slaughterhouse.

There was something wrong in 1989 when a California schoolyard became a firing target. An Oklahoma post office, a Kentucky printing plant, a California fast food restaurant, a Texas university campus—all have been the sites for grisley mass shootings. It is not acceptable to have someone shot anywhere. But there is something terribly, terribly wrong when people are slaughtered in broad daylight in nonviolent, nonconfrontational, peacetime situations while they are quietly going about their daily lives.

I would just like to read, if I might, Mr. President, a list of some of the worst shootings that have taken place over the past decades.

July 18, 1984: 21 people are murdered in San Ysidro, CA, shot by an out-of-work security guard. August 1, 1966: 16 people are killed at the University of Texas in Austin, by a man who climbed to the top of a tower and picked people off, like a sniper. August 20, 1986: 14 people are shot to death at a post office in Edmond, OK, by a postal worker. January 17, 1989: a drifter armed with an AK–47 opens fire on a California schoolyard—5 children between ages 6 and 9 are killed, and more than 30 wounded. February 19, 1983: 13 people are fatally shot in a robbery in a gambling club in Seattle. September 5, 1949: 13 people are shot and killed in 12 minutes in Camden, NJ. September 14, 1989: seven people are killed in a Kentucky printing plant by a former employee wielding an AK–47.

It is clear we have a big problem in this country, and it is guns. We have too many guns, and they are too readily available. I am not talking about hunting rifles. I am talking about quasi-military semiautomatic weapons that are designed for military combat or for law enforcement officers.

The first weapon used in Luby's Cafeteria last week was a 9 millimeter Glock 17 pistol. It is a lightweight, durable, highly accurate weapon that will accommodate 17, 19, or even a 32-round magazine; 32 rounds you can squeeze off before reloading. It is available over the counter. It is a best seller in this country. It is used by agents of the Secret Service; FBI, Customs Service, and thousands of other Federal, State,

and local law enforcement agencies. And it is favorite with the drug dealers, not surprisingly.

From where did this weapon come? Was this designed as a hunting weapon, or even for target shooting? No. This weapon was manufactured and developed in 1982 at the request of the Austrian Army. It was built for military purposes, to wound or cause death to an enemy.

The second weapon used was another 9-millimeter semiautomatic, a Ruger P89, a 15-round magazine.

Now, dozens of such military-style semiautomatic weapons exist. In 1989, after studying 50 different kinds of weapons, the Bureau of Alcohol, Tobacco, and Firearms, familiarly known as the BATF, advised our President that only seven of these weapons were being used for hunting and sporting purposes.

The agency staff studied carefully the components of these guns that pointed to military use; large-capacity ammunition magazines, and so forth. And based on these recommendations, the President banned the importation of 43 types of assault weapons, and the President deserves credit for having done this.

However, there are plenty of loopholes in the import ban. The import ban, for example, does not get at domestic versions of the same guns, and criminals can easily get domestic versions. In fact, it is easier to get a weapon, frequently, than it is to get a marriage license. It is easier to get a weapon than it is to get a library card. And these are the same guns whose bullets can pierce concrete.

Now, let us face the facts. In this country, there are effectively no Federal gun control laws. Yes, we have a procedure in which a prospective gun purchaser must sign a form certifying that he is not a felon. Imagine that. How many felons are going to say: Yes; I am a felon. And a purchaser must also certify that he is not a minor, and certify that he is not a drug addict. I wonder how many people are going to admit: Yes, I am a drug addict. Or admit that they are mentally incompetent. There is no verification; there is no checkup. And that means half-truths and outright lies go undiscovered. Today, the only effective gun control laws are at the State level, and even these are weakened because of the uneven patchwork of State gun laws and the underground gun pipelines that transport guns from States with weak gun laws to those with stronger laws.

So criminals do not need to buy guns in the black market, according to the BATF. Criminals often have bought their weapons over the counter. They just go into a store and buy one.

Something ought to be done. The Senate twice has approved crime legislation that banned certain semiautomatic assault weapons and for the first time has approved legislation providing for a national waiting period before the purchase of a firearm.

Unfortunately, just last week, despite what happened in Killeen, the House voted down an assault weapons ban. That is very unfortunate.

No one is saying gun controls are the sole cure for crime, but certainly having gun controls would be a tremendous assistance. And it makes no sense to craft crime-fighting measures that do not include stricter gun control.

Once again, this country has heard what one witness in Texas called that terrible stillness of death. Fourteen women and eight men died last week in that shooting and countless others are suffering from shock. This is a senseless loss of life.

Our country can and must do better. Stricter controls on guns are simply no sacrifice compared to the grief caused by death. I urge Congress to come to its senses and approve passage of such controls.

Soon the House and Senate will go to conference on the crime bill, where the differences between the two measures are to be reconciled. The Senate bill bans some, but regrettably not all, semiautomatic assault weapons. The House version, as I mentioned before, contains no such ban. I fervently hope that the Senate conferees press for the Senate version, and that out of this legislation we do get the bans that are included in the Senate version, as well as the Federal waiting period.

Mr. President, I would like to conclude by reading the moving comments by Representative CHET EDWARDS, whose district includes Killeen, TX, where the shootings took place:

> I am an example of someone who doesn't believe in massive gun control. But I do believe that somewhere we've got to draw the line. We don't allow grenade launchers in people's garages. We don't allow bazookas in their living rooms. And we shouldn't allow drug kingpins to have these kinds of assault weapons that are killing innocent victims.
>
> We can't solve crime with this measure [gun control legislation]. We can't stop every mass murderer. But I honestly believe that we can save someone's life down the line by trying to come up with common-sense, reasonable regulations on military-type assault weapons.
>
> Well, in the past I had listened to the statistics, that there are gun-control states that have high crime rates. But when you have 22 people die in your own backyard, neighbors of friends of yours, you look at it differently. It's no longer an issue of statistics and crime rates and charts and esoteric legal arguments. It's an issue of life and death. And that's why I changed my position on it [gun control]. And I think many other Americans will do the same when they see what I've seen in the carnage on our streets.
>
> [T]he battle may have been lost today to ban assault weapons. I hope the war will be won tomorrow. As members of Congress hear from folks back home who are outraged by what happened in Texas, in California and in other mass murders across this country, I think the tide is going to turn, and this war will be won. I certainly hope so.

Mr. President, I join in that fervent hope. I thank the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Wisconsin is recognized.

THE VP'S COMPETITIVENESS COUNCIL

Mr. KASTEN. Mr. President, in the past few months we have been talking long and hard about how to jump-start the economy and to spur economic growth. I think it is becoming increasingly clear we have to reestablish some of the incentives, to reincentivize, if you will, the economy with progrowth tax cuts and other kinds of measures.

However, one of the biggest roadblocks to a healthy and competitive economy is excessive and burdensome Government regulation. In a recent speech to small business owners, President Bush said that the Government's regulatory machine cost the economy at least $185 billion. I understand that new estimates being formulated have increased that figure to $300 billion to $400 billion annually.

In an effort to reduce this burden, President Bush established the Council on Competitiveness, appointing Vice President QUAYLE as its Chair. The President gave the Council a simple mandate, to review Government regulations that would impose more costs on business—particularly small business—than they would generate benefit to the rest of society.

A good measure of Vice President QUAYLE's success are the potshots now being taken at the Council by some in Congress and the liberal special interest groups. These groups seek to drive a wedge between the President and the regulators—they are trying to reduce the President's ability to intervene against costly and unreasonable regulations. They complain that the Council is a secret type of government that interferes with the real experts in the agencies. Such criticism is taking place right now in a hearing before the Senate Governmental Affairs Committee.

From taking on our severely flawed civil justice system to encouraging parental choice in America's schools, the Vice President's Council is working to make our economy competitive—so that it can create more jobs for our workers.

The Competitive Council has done outstanding work in pointing out the terrible burden that this Nation's unfair product liability laws pose for America's competitiveness. In fact, President Bush directed that the very first issue to be addressed by the Council be product liability reform.

We now have 36 cosponsors of S. 640, the Product Liability Fairness Act, which would reform some of the rules that apply in product liability lawsuits.

Through its deregulatory efforts, the Council is working to try and ease the suffocating effect that the Federal red tape burden imposes on small business owners. The Vice President has played a critical role in reviving OMB's Office of Information and Regulatory Affairs—referred to as OIRA—which was created under then-President Jimmy Carter to review Government regulation.

This role has been particularly important, since Congress has left the top slot at OIRA vacant for almost 2 years and refused to reauthorize the agency.

Thanks in large part to the efforts of Vice President QUAYLE, the administration recently announced its support of the Paperwork Reduction Act of 1991, introduced by Senator NUNN, myself, and Senator BUMPERS. Our bill would not only reauthorize OIRA but strengthen its ability to block costly Federal regulations that threaten our competitiveness.

The American people owe a debt of gratitude to the Vice President's efforts to keep America No. 1 in the global marketplace, to keep America competitive, and to get rid of costly and unnecessary Government regulation.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

EXTENSION OF MORNING BUSINESS

Mr. BOREN. Mr. President, I observe that the time allocated for morning business is almost expired, and I know my colleague from Idaho also wishes to speak as if in morning business. I am also told that the managers of the bill which is pending are not yet on the floor. Therefore, I ask unanimous consent that the time for morning business be extended for 15 additional minutes until 11:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I thank the Chair.

THE NEED FOR COMPREHENSIVE REFORM OF CONGRESS

Mr. BOREN. Mr. President, I rise this morning to continue a series of remarks that I began yesterday. Yesterday, I noted my intention to continue to come to the floor, keeping a vigil on the floor, two or three times a week, every single week, until Congress takes action to reform itself. I continue with that commitment today. I will continue next week. I will continue every week for so long as it takes to draw the attention of the American people and my colleagues to the need to reform Congress as an institution. All across the country, there is more and more dissatisfaction with the performance of this body.

As I said yesterday, we are the trustees of this institution. These seats in the U.S. Senate, in this Chamber, do not belong to us. They belong to the people. When Congress fails to function, our democratic system is imperiled because Congress, as an institution, is at the heart and soul of the representative democratic process itself.

We all know the truth. Congress is in trouble. Congress is not working as it should. The American people have seen it time after time. People are beginning to change their minds about what should be done, looking for extreme solutions. They are frustrated.

I notice the column recently by George Will, the columnist who has indicated that he is always against term limitation, I am sure feeling as I do that term limitations will only increase the power of the bureaucracy to run the Government. But in a recent column he starts out by saying: "I have changed my mind." He now favors term limitations. He said:

> Increasingly, Congress creates problems its members then rush forth to "solve." Congress creates programs, which entail bureaucracies; then members act as ombudsmen, intervening on behalf of grateful constituents.
>
> Today's "permanent government" justifies its permanency by its complexity.

He goes on and on to tell the reasons why he finally has come to the extreme solution of term limitations in order to try to do something about the process. More and more that is going to happen in this country.

If we do not act to reform Congress from the inside, extreme solutions are going to be imposed on the outside even if in the short run those solutions are not in the best interests of the country.

So we have a responsibility to do something. The people have lost confidence in this institution. They look at bounced checks in the House bank; they look at the problems we have had with the confirmation process, to the tragic impact on the lives of people like Judge Thomas and Professor Hill, because of a lack of responsibility in the process itself, perhaps by those in this institution or those associated with this institution, the staff positions.

They look at the failure of Congress to deal with the big issues confronting this country. They look at our failure to prepare this country for the next century because we are so bogged down in a morass of details brought about by the complexities of our own bureaucracy, which itself has grown out of control, and the people have said: We have lost confidence in you.

I have to say in all sincerity I do not think the people are wrong to have lost confidence. It is not just those outside this institution who are worried and concerned about the Congress. It is those inside this institution as well.

I noted the column by Congressman DON PEASE, of Ohio, member of the Ways and Means Committee, an eight-term Member of the House of Representatives, a distinguished Member of that body, who, along with Congressman ECKART, another very talented Member of the Congress, announced they are quitting. I read with distress his reasons. He talked about the family sacrifices that are made, the sacrifices of friendship, the sacrifices of the pleasure of daily life which others enjoy in order to try to serve in this institution, and he said, "It would all be worth it for me to make those sacrifices, to my family, my friends and others, if I really felt I were making a difference on the things that really count for this country." But he said, "Sadly, I decided I am not sure that working through Congress as an institution as it is now constituted I can make the kind of difference that would justify those personal and family sacrifices by myself and by those that I love."

He talks about several things. He said: "Federal deficits have to be demoralizing to any thoughtful, responsible Congressman. Rationalize as we might, the truth is that we are in charge while our Nation's future is being mortgaged and its economic strength sapped."

He speaks later of the failure to have campaign finance reform enacted. He said: "The driving fact is that 30-second TV spots are enormously powerful and effective. They are also enormously expensive. Candidates will always strive to raise the money one way or another.

"Aside from their cost, 30-second TV spots pose another dilemma."

"They trivialize and distort the issues." Unfortunately, they appear to work. He says, having listed several areas of frustration with the way Congress is not working:

> Rather, my list suggests to me a series of matters for which a "no way out" sign may have to be posted. As they make their biennial decisions to run or not to run for reelection, Members will have to decide whether to live with the frustrations or to exit the institution.

I only say that I am sad to hear talented Members of Congress give up on the institution. My answer would be: let us not exit the institution. Let us reform the institution. Let us revitalize the institution. Let us do something about these problems that confront us. Let us stop the runaway spending on campaigns, where incumbents are able to outraise challengers eight to one, where the average Member of the U.S. Senate has to raise $15,000 every week to raise the average amount of money it takes to run for reelection, becoming full-time fundraisers and part-time legislators.

Let us do something about it. Let us look at the huge bureaucracy we have created right here in the Congress, going from 2,000 employees to 12,000 employees over just the last 3 decades.

Looking at the number of committees, we have gone from 34 committees in 1947 in the Congress to 301 committees and subcommittees this year, with the average Member of the U.S. Congress now serving on almost 12 committees and subcommittees.

It is no wonder that Members run from morning into night wondering how in the world they are going to get their work done, and at the end of the day they realize that they have really been trivialized in their pursuits, distracted from the big issues, running from one subcommittee meeting to another, trying to deal with more proposals generated by more and more staff that bog us down and make it impossible for us to function.

Last year, for example, there were 6,973 bills introduced in the Congress. On an average, they were four times longer than bills were when they were introduced in 1970. More micromanagement of the Government. More delving into the bureaucracy. More details and more staff to analyze them. And a smaller percentage of the bills introduced were enacted last year than before.

Only 3 percent of the bills produced—225 out of 6,973—were enacted into law. More and more bills are introduced, clogging the process by a growing staff, bogging down the process, diverting our attention from the big questions, keeping us from dealing with the problems of the country, like reducing the budget deficit, doing something to help those in distress in the middle-income families who get nothing but the bill from Government and none of the benefits; dealing with how to repair the educational system in this country, so we can compete in the world marketplace; dealing with programs to encourage saving and investment to get the cost of capital there, so we can compete in the world marketplace and have jobs in the next generation.

No, Mr. President, Congress, as an institution, is badly in need of repair. We cannot look to anyone else to do the job. We are here now. We occupy these seats. We are the trustees for this great institution, which has contributed so much to the well-being of America over the last two centuries of our country's existence. We must not sit here and allow it to fail.

Four of us have proposed—Congressman HAMILTON and Congressman GRADISON, Senator DOMENICI, and myself, two Democrats and two Republicans—another major effort like in 1947 when the Monroney-La Follette Committee took a look at sweeping changes and reforms in Congress, in the institution itself. Many people on both sides of the aisle have joined in this proposal.

It is time now to move on that proposal; it is time to set up this temporary working group. By the way, it would be staffed with volunteers, nonpaid people, as the original committee was, people across the country who want to contribute time to help reform Congress. Let us give them a chance to do it. We do not need another huge, expensive bureaucratic committee to do the job. Let us set up a small, lean, working group staffed by volunteers, ordered to report back by a time certain with major reforms for the Congress, and let us get the job done; let us get on with it.

As I said, Mr. President, there is no time to waste. There is a cancer eating away at this institution, and we must treat it now before it does damage that can never be repaired to the heart and soul of the democratic process, and to that relationship of trust that must be there between the people and their elected representatives.

I will come to the floor again and again, week after week, until we begin to move forward in a positive way, until we create this group to work on the overhauling of Congress, until we live up to the trust and confidence of the American people. They have said to us: we have had enough.

It is time for us to listen to the people. It is time for us to do something to reform Congress as an institution in a meaningful way.

I thank the Chair.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I listened with great interest to my dear friend from Oklahoma, and I hearken back to 1990 right prior to the adjournment of Congress, when I said this time the American people have had enough. They are going to throw the Congress out. They are going to go out and hire a new Congressman. I think maybe I was off by 2 years.

There is a solution to the problem of the Congress that borrows $1 billion a day and refuses to recognize sound tax policies and continues to pass regulations that impose a regulatory recession on the economy of the United States. There is a solution to it for those people around America. That is, hire a new Congressman. You do that by voting. Vote these people out of office that continue to do this.

I listened also to my colleague from Delaware, as he spoke here on the floor, and I found myself in great agreement with what he said about tax policy.

We must seriously look at proposals like those of the Senator from Delaware, what he just introduced, to get this economy moving again.

It is an amazing thing, Mr. President, to see what happened on the way to the recession. Only a few short months ago, the idea of reducing taxes to get our economy moving again, not to mention relieving middle America of a ridiculously heavy burden of taxation, was brushed over as irrelevant. Cutting taxes to cut short recession was taboo in this place. Cutting taxes to undo the damage from last year's disastrous tax increase was construed as irresponsible, that it would unravel the budget agreement which had taken on almost a holy tone. The budget agreement is like the Holy Grail that we are worshiping to but it is on the backs of the savers, the investors, and at the same time, we burden them with excess production regulations that make it impossible for Americans to compete.

Now we are having the results of the crops that we sowed in the last 4 years here in the Congress. The results of that crop is that we have unemployment, massive layoffs, and a stagnant economy. And then Congress, all of a sudden, last week's defenders of this Holy Grail Budget Act, received religion. Now they have a new religion. Today, those who stood in the way of economic growth by opposing capital gains cuts or cutting the Social Security tax are falling all over themselves to come up with a tax cut they can call their own.

This is music to this Senator's ears, to have his colleagues finally recognize what some of us have been saying all along. To all my colleagues, to the White House gnomes, to the pundits who have come to understand that the road to prosperity is not paved with higher taxes, and more Government regulators and more Government spending, it is better late than never. Welcome aboard.

For those of us who have been preaching the gospel of lower tax, we welcome you. Do not expect us to assume that just because you reversed your course, you now understand where we ought to be heading. Our economy needs help, and it needs it now, Mr. President. We need to get things moving again by reducing the tax and regulatory burden that finally overwhelmed the greatest job machine known to man—the American economy.

What is the best way to do this? What kinds of tax proposals will get things moving again?

From some of the reports that I have been hearing and picking up, we have the same muddled thinking that led us in last year's disastrous tax package and is now working up and patching together some kind of makeshift tax package this year.

Before I go any further I want to say on the floor what I said to the chairman of the Finance Committee outside yesterday. I want to thank Senator BENTSEN, the chairman of the Finance Committee, for his courage and leadership in offering his tax cut proposal. While I may not necessarily agree with some of the details of the proposal, or the way that it is being framed, the way the argument is being framed, I do agree that the Nation owes him a debt of gratitude because his proposal has kick-started this process of looking for

a job-oriented tax cut proposal in the first place.

So I thank the chairman of the Finance Committee, Senator BENTSEN.

Whatever tax proposals begin to take shape, it is imperative that they be focused, that there be an underlying philosophy that is credible and defensible, and that they address the weaknesses in the economy; that they not become vehicles for every two-bit amendment that can be pasted on. The situation is very serious, and that is how we should deal with it.

We need to be clear in our minds what will and what will not get the economy moving. There is one that should not be forgotten, Mr. President. Tax cuts which do not improve economic incentives will not get the economy moving.

It is so important so let me say it again: Tax cuts that do not improve economic incentives will not get the economy moving. Only by improving incentives will we get people back to work. Only by improving incentives will we encourage investment. Only by improving incentives will we encourage productivity.

For example, offering a tax credit for children or raising personal exemptions are fine ideas in and of themselves, and this Senator will certainly vote for them. They will give the middle-class, middle-income people a badly needed break, but they will not help the economy. They will over time put more money in people's pockets but that will not necessarily get the economy moving again. For anyone to think that increasing the personal exemption will get the economy moving, I say look at history. In case anybody has forgotten the name, that kind of thinking used to be called Keynesian economics. It is pump-priming aggregate demand. It will not work any better today than it has in the past 30 years.

It is incredible to think that so many have forgotten that the greatest job machine ever known was created through a bipartisan effort in Congress that recognized that lower tax rates increase investment, increase jobs, and increase growth.

Have we already forgotten the enormous benefits from the 1981 tax bill? Even though it took 3 years, Mr. President, to phase in the cuts in rates, the reduction in income tax rates had a profound effect of getting our economy out of the Carter-Volcker recession. The empirical evidence is there to show that. The only reason we had a deficit is we could not get this same Congress, with cooperation from the White House, to squeeze off the spending machine. We only got half the program. We got the encouragement, the incentives, the best climate, but we did not get the faucet shut off here to spray America with checks written by the Federal Government to increase the deficit. So now we are borrowing $1 billion a day.

Have we so forgotten the grand national consensus that led to lower tax rates as the cornerstone of the 1986 tax reform? While there was much in that bill that damaged the economy, the tax rate cut was fundamental to keeping the job machine running.

I think we should give the taxpayers a break. They should get to keep more of their own money.

We should act, and act now, before the end of this session of Congress, to get the economy moving again. I think it would be a travesty for this Congress to recess for Christmas, to go home to our constituents, without having done anything to help the unemployed find jobs. I frankly do not want to have to try to tell someone who has been laid off because of the recession that Congress failed to act.

If you want to get the economy moving again and you want to give the taxpayers a break, then we should take a page from recent history and cut the tax rates. Cut the tax rates for the poor. Cut the tax rates for the middle income. Cut the tax rates for the upper income. And I think we should move toward a new tax rate schedule. I think we should drop the current schedule and adopt a 10 percent, 20 percent, 30 percent schedule: Ten percent for the working poor, 20 percent for the middle income, and 30 percent of the upper income.

That, Mr. President, would get the economy moving. Maybe we cannot get it all at once. Maybe we would have to phase in the cuts over 2 or even 3 years. But if we can find a way to pay for enormous tax credits or increases in the personal exemption, we can find a way to reduce the tax rates.

If we cut the tax rate, we will lower the disincentive to work. Will pump-priming do that? The answer to that is "no."

If we cut the tax rate, we will improve the incentive to invest in new businesses, new plants, new equipment, and new enterprise. Will pump-priming do that? No.

We should lower the capital-gains rate of taxation. I know that capital gains has been buried in political garbage so deep that it is hard to talk about it. But we must talk about it, Mr. President.

If we must be bogged down in revenue estimate problems, let us see if we cannot make Senator BREAUX' proposal work. He challenges those of us who believe in lower capital-gains taxes who say that it would raise revenue to put our Tax Code where our money is. He suggests if there is not a net increase in revenues in the outyears that there be an income tax surcharge on the wealthy. He makes the challenge, and I think we should look into a way to make that work, to accept that challenge and put it into effect and demonstrate that reducing the rates on the capital-gains rate of taxation will generate economic growth and prosperity and be very helpful to the American people.

Another idea that ought to be looked at is Senator ROTH's incremental investment tax credit. We need to help our businesses invest. They need to be competitive. If we can get our investment up, we can get our people back to work. This is particularly important since last year's Clean Air Act has hammered some of our capital-intensive industries. The only way they can survive is by investing and the only way they can invest is if we lower their cost of capital.

There is an old saying, Mr. President, that the only way to get a mule's attention sometimes is to hit him squarely between the eyes with a 2 by 4. I am afraid that seems to apply equally to mules and elephants these days. This recession has certainly been a 2-by-4 pounding on the well-being of Americans.

So all the donkeys and elephants, we hit them all over the head with a 2 by 4, I say to the American taxpayer, tell them they want common sense with respect to economic growth activities. Maybe we are starting to wake up.

I am greatly encouraged to see my colleagues now recognizing that what they did last year in October 1990 was an unmitigated disaster to this economy. Let us get the economy moving again. Let us reduce the tax rates. Let us put incentives back into investment. Let us get a bipartisan economic recovery package and put Americans back to work again.

Mr. President, I yield the floor and I thank you for your indulgence.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXTENSION OF MORNING BUSINESS

Mr. KENNEDY. Mr. President, at the request of the Senator from Mississippi, I ask unanimous consent that morning business be extended for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LEAK INVESTIGATION

Mr. LOTT. Thank you, Mr. President, and I thank the distinguished Senator from Massachusetts for giving me this 5 minutes to talk on an issue that will be limited in time later on today.

For the past 3 days, I believe, while there have been negotiations going on with regard to the civil rights bill there have also been negotiations going on with regard to how a proper targeted investigation could be made into

the alleged leak of documents concerning the Thomas matter and the affidavit of Professor Anita Hill. Those negotiations have gone back and forth between the respective party leaders here in the Senate and with a lot of communication from other interested Senators, including Senator SEYMOUR of California.

What has been happening during these 3 days? You would think that this is something that could be resolved relatively quickly. The Senator from California, Senator SEYMOUR, made an early proposal to have an FBI investigation while the trail is hot targeted on this specific alleged leak of an FBI report, and that it be done within a limited period of time, get back to the Senate and see what the results might be.

Frankly, I doubt that you will be able to prove definitely one way or the other what happened, but I think the Senate has an obligation to pursue it and try to find out how this happened and maybe come up with ways to try to prevent it in the future.

So that is what has been at stake here, trying to find out how to get it done, get it done quickly, and properly.

I thought the respective leaders would come out on the floor and say we agree that the FBI investigate this, report back to the leaders, who will report to the Senate if any further action is necessary.

But somewhere along the line things got a lot more complicated. It has been suggested on both sides of the aisle that we have a special independent counsel do this work. That is mistake No. 1. Why do we not just give special counsel Walsh an additional $3 million and let him just take up this investigation with all the other investigations he has been involved in?

But aside from the sarcasm, just think about it: A special counsel will have been selected by mutual agreement between the two leaders, or they will have to hire staff, establish offices and connect telephones and it would be at least a month—that is very optimistic—before a special counsel could even begin to be organized to do the investigation, when in fact the investigation should be over in a month. So the independent counsel idea, up front, in my opinion, is the wrong way to go. It just takes too long to get organized.

The next part of this negotiation that was really curious to me was that the effort by the distinguished majority leader was to include a whole number of issues. He says, "Oh, we get mad when there are some leaks, but not mad when there are other leaks." The fact of the matter is this is the one that is on the conscience of the American people now; it is on the screen; people are worried about it.

We could find out if this was done or not and you would be done with it. But, instead, the proposal has been to spread it out, diffuse it, obfuscate it, have the dogs chasing a whole lot of foxes, when, in fact, what you get is nothing.

So it is proposed that it look not only into the Thomas matter but into the so-called Charles Keating matter before the Senate Ethics Committee, that it look into problems before the Subcommittee on Antitrust, Monopolies and Business Rights, that it look into the Timothy Ryan matter of the Resolution Trust Corporation, all kinds of provisions to be included here, including allowing the special counsel to make recommendations for disciplinary action. Special counsel should not and could not do that when it involves the legislative body, in my opinion.

Now, it has been narrowed some in scope. It will not be applicable only to the Thomas matter and to the so-called Charles Keating matter. But I think the Members need to know that the Ethics Committee, in view of alleged accusations of leaks on both sides—Democrat and Republican—voted unanimously, in a bipartisan manner, to have a GAO investigation of the so-called Ethics Committee leaks. I think 7 months have been involved, thousands of dollars. Retired FBI agents have investigated it. They have completed their work. They have briefed the Ethics Committee and they have no conclusion. They could not find any proof of where it started; a lot of suggestions, but no concrete proof.

So now after 7 months and thousands of dollars, great, let us bring in special counsel and continue to pursue this matter, which is a very cold trail. I am sorry to say that the Ethics Committee has been working on the so-called Charles Keating matter for 2 years almost. And now we are going to go back and try to reconstruct or resurrect how a leak may have occurred?

The point, Mr. President, is we have a matter here that was a great embarrassment to the institution. It violated the rights of Anita Hill. It impugned the integrity of Justice Thomas. The American people saw it—live and in color. They did not like it. They would like for it to be investigated, to determine, if you can, what happened, and end it.

This process that has been agreed to will now only be debated for 1 hour. We will have the Seymour amendment and we will have the Mitchell resolution. We will have a total of 1 hour debate, equally divided, on the two. We will vote. The special counsel, independent counsel, will be off plunging around for weeks, months. I mean, we will go for a minimum of 120 days. So we are talking about months for this investigation. What will happen is it will be untargeted, it will be inconclusive, it will be too late.

Mr. President, this is not the way to do this. I urge the Senate later today to vote for the Seymour amendment. Let us do this job, get it over with, get it behind us, see if we can find out who did this, how it happened, and stop it in the future.

I thank you again, Mr. President, for this time.

TRIBUTE TO TENNESSEE ERNIE FORD

Mr. SASSER. Mr. President, I would like to take a few moments today to note the passing of one of Tennessee's greatest and most beloved sons—indeed a great American—who died last Thursday. Ernest Jennings Ford, better known the world over as Tennessee Ernie Ford, achieved great fame and won great honors as a performer and a patriot, but he never forgot his friends or his roots in Bristol, TN.

Mr. President, I could list for hours the many accomplishments of Ernie Ford. As a singer and recording artist, he recorded more than 80 albums during this career and sold more than 60 million albums of both country and gospel music. His biggest hit, "Sixteen tons," has sold more than 20 million copies since its release in 1955.

As a popular television personality, he hosted "The Ford Show," which ran from 1956–61 and featured such stars as Ronald Reagan, John Wayne, and Gary Cooper. He also had a daytime musical variety show from 1962–65 and made a number of guest appearances on other television shows and specials. One of his more memorable cameos was as "Cousin Ernie" on "I Love Lucy."

True to his American heritage and that of the Volunteer State whose name he so proudly bore, Ernie Ford enlisted in the Army Air Corps during World War II as a bomber pilot, and later became a flight instructor. In 1974, he headlined a tour of the Soviet Union as part of the cultural exchange between the United States and the Soviets. He received the Medal of Freedom in 1984 for his distinguished service to the Nation, and more recently, in October 1990, he was inducted into the Country Music Hall of Fame, the highest honor which can be bestowed on a country music entertainer. In late September of this year, he dined at the White House as then guest of President and Mrs. Bush.

But, Mr. President, Ernie Ford never forgot his roots in Tennessee, despite his international success. The fact that he took his name from the great State where he was raised is but a small indication of his dedication to Tennessee. He also used his national success to help launch and promote the careers of other performers from Tennessee, including Minnie Pearl and the Everly Brothers.

More important, Ernie Ford always remembered his friends and family in Bristol. Residents of the area will attest to the genuine interest he showed in the community and to his heart-

warming modesty and humble attitude that made him a regular country boy. He returned to Bristol often, and he made his last public appearance at the dedication of the newly renovated Paramount Center for the Arts last April.

I believe Ernie Ford summed up his dedication to Bristol best when he said: "This is my hometown. This is where I grew up, where I was born and raised * * * I'll always be a Tennessean. I don't think you ever forget where you first came from."

Mr. President, I join my fellow Tennesseans and all Americans in mourning the loss of Ernest Jennings Ford and in expressing our gratitude to him for enriching our lives with his song and his humor and for his lifetime of service to Bristol, TN, and the United States of America. Our condolences are extended to his wife, Beverly, his sons, Brion and Buck, his grandchildren, other family members, and his many, many fans and friends around the world. Truly, we all feel the loss of a friend at this time.

Mr. President, I ask unanimous consent to submit an editorial from the Bristol Herald Courier/Virginia-Tennessean, which reflects the mutual love and admiration between Ernie Ford and his hometown of Bristol.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

[From the Bristol Herald Courier/Virginia-Tennessean, Oct. 18, 1991]

BUT THE VOICE HASN'T BEEN STILLED

Early on, there was nothing to suggest that Ernest Jennings Ford would become Bristol's most famous native son. Such things are rarely, if ever, foreseen.

He played trombone in the Tennessee High School Band, he became a radio announcer in 1937—at $10 a week. Later, he worked at radio stations in San Bernadino, Calif., Knoxville, Tenn., Atlanta and, back to California, in Pasadena.

There was one thing: He studied voice at the Cincinnati Conservatory of Music. It was a key period in a life which, beginning in the late 1940s, was to become part and parcel of the music and entertainment industry—not only in the U.S. but worldwide.

After serving in the Army Air Corps as a bomber pilot and, later, a bombardier instructor during World War II, he returned to the States and, in 1949, was signed by Capitol Records, an association that lasted for 28 years and more than 80 albums.

Now "Tennessee Ernie Ford," he appeared on CBS and ABC radio networks from 1950-1954. Then, in 1955, he introduced the unforgettable song, "Sixteen Tons," and the march to the top shifted into high gear.

His primetime TV variety show lasted from 1956 to 1961; it was followed by a daytime show from 1962 to 1965. Both were "must watch" programs for millions upon millions of Americans—who learned quickly that the "ol' Peapicker" was a native of Bristol.

While his mix of popular and country songs triggered album sales reaching into the millions, it was his gospel music that anchored him in the hearts of his fans. (He recorded one album—"Tennessee Ernie and Cousins"—at a Bristol church.) At last report, more than 24 million of his gospel albums had been sold; they are still being sold today.

He was not a "prophet without honor" in his hometown, among his friends and former neighbors. In the 1950s, he was honored by the Twin City during a "Tennessee Ernie Ford Day," complete with a parade, a concert and a competition among local vocal groups (in a packed Stone Castle) for the right to appear on his TV show.

More recently—just last spring—he returned to Bristol, for the last time as it turned out, to take part in the grand reopening of the refurbished Paramount Theater and, a week later, to receive an honorary degree from "Virginia Intermont College.

Tennessee Ernie Ford died Thursday at the age of 72.

The man is with us no longer, but the voice remains in the songs he sang, the stories he told, the joy of his laughter. It is all there, on records and tapes, to be enjoyed at the push of a button, the whirl of a turn-table.

He was Bristol's own, and the city, the nation and the world are poorer without him.

TRIBUTE TO HER MAJESTY QUEEN SIRIKIT ON THE OCCASION OF HER ROYAL VISIT TO THE UNITED STATES

Mr. JOHNSTON. Mr. President, on behalf of all my colleagues, I am deeply honored to extend a warm and heartfelt welcome to Her Majesty Queen Sirikit on the occasion of her royal visit to the United States and to our Nation's Capitol.

Queen Sirikit has traveled to our country to receive the Humanitarian award of the Friends of the Capital Children's Museum, the first such award ever bestowed upon an international dignitary. One need only consider a few examples of her interests and her accomplishments to understand how richly deserved this award is.

As an active participant in Save the Children, Queen Sirikit has helped many of those who are the most vulnerable among us, children in countries throughout the world. She has also taken a personal and prominent role in programs to ease the plight of millions of refugees encamped along the Thai border.

Among her most notable achievements was the creation in 1976 of the Foundation for the Promotion of Supplementary Occupations and Related Techniques. Support has been highly successful in helping impoverished rural families and the disabled and handicapped citizens of her country to develop their talents as artists and craftsmen, providing a source of supplemental income, and an enterprise that helps promote the traditional culture of the Thai people.

During a visit to Thailand last year, members of the Senate wives delegation, including my wife, Mary, had an opportunity to observe the Support Program firsthand through a tour of the foundations' center at Mae Tum in the Serm Ngam District of Lampang Province. Members of the delegation were graciously received by Her Majesty at Chitralada Palace in Bangkok and toured the foundation's training center on the Palace grounds, where 500 students are enrolled in courses aimed at developing their artistic and creative skills.

The delegation had the highest praise for the Support Program, not only as a source of additional income for those who participate in it, but as a source of tremendous pride for all the people of Thailand. Needless to say, the members of the delegation were also left with a profound sense of admiration for the woman who has made this program possible.

Through her tireless dedication to improving the quality of life for her fellow citizens and preserving the special heritage and rich culture of that nation, Queen Sirikit has earned a very special place in the hearts of her people.

She has earned, as well, the enduring respect of people throughout the world; people who share the fundamental values of human decency, kindness, and compassion that are so clearly reflected in her work. Her courageous, lifelong commitment to those values serves as an inspiration for us all.

IN HONOR OF THE CENTENNIAL CELEBRATION OF COPIAH BANK

Mr. COCHRAN. Mr. President, I would like to take this time to recognize the Copiah Bank, located in Copiah County, MS, which will celebrate its 100th anniversary on Saturday, October 26, 1991. Originally named the Bank of Hazlehurst, the bank has had a rich history of serving its community since it was organized in 1891 by Mr. J.A. Covington, who interested others to invest in the venture.

The history of Copiah Bank, N.A. and the history of Copiah County are inseparable. It is, in the truest sense of the term, a "community" bank. Copiah Bank, has played a significant role in elevating the general quality of life through a long-standing commitment to Copiah County and its towns and communities. In education, cultural events, churches, local associations, clubs and civic groups, Copiah Bank and its employees have demonstrated their support for and involvement in their community.

In recognition of the many contributions made by Copiah Bank, I offer my congratulations and best wishes to its employees and to its president, Mr. E.E. "Buddy" Prestridge.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,413th day that Terry Anderson has been held captive in Lebanon.

On Sunday, Terry Anderson will celebrate his 44th birthday. Peggy Say—his sister and devoted advocate—has expressed a wish to observe his birthday discreetly. I ask unanimous consent that an Associated Press article reporting her intentions be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

QUIET CHURCH SITE OF TERRY ANDERSON BIRTHDAY OBSERVANCE

CADIZ, KY.—The sister of journalist Terry Anderson, the longest held American hostage in the Middle East, will observe her brother's 44th birthday with a quiet service in her hometown church Sunday.

Peggy Say said Wednesday that Anderson's seventh birthday in captivity should be observed with little fanfare in view of Monday's release of a U.S. hostage and pending peace talks in the area.

"Given the sensitivity of this over the last couple of months, I felt a low profile was appropriate," Say said.

"We did not want to travel during this time. One thing hostages' families do is keep in touch almost hour by hour when this sort of thing occurs," she said, referring to this week's release of American Jesse Turner, "It's important for us because I don't think anyone else can understand this kind of personal hell."

The Rev. Harold Skaggs said he will devote Sunday's morning service at Cadiz Baptist Church to the ordeal of Anderson and the other Westerners taken hostage in Beirut by Shiite Moslem factions.

Anderson, the chief Middle East correspondent for The Associated Press, was kidnapped on March 16, 1985, on a street in Beirut.

Say and her husband, David, are members of the church, where a yellow candle has been lit during each worship service for the last three years as a reminder of the hostages.

"It has become an emotional issue with us," Skaggs said. "Peggy and David are active members of our congregation and we have identified ourselves more with the hostage crisis."

Say, who has met with international leaders and traveled overseas in her crusade to free her brother, said other small observances are planned Sunday.

No Greater Love, a support group for hostage families, plans to release tape-recorded statements from celebrities including former President Jimmy Carter and talk show host Phil Donahue calling for the hostages' release, a spokeswoman for the organization said.

In Lorain, OH, where Anderson was born, friends are planning a public birthday party outside city hall.

In a videotaped statement released by his captors on Oct. 6, Anderson appeared healthy and in good spirits. He said in the statement that good news was imminent for families of the Western hostages.

SOVIET BUTCHERY UNMASKED

Mr. MOYNIHAN. Mr. President, as winter approaches, the news from the Soviet Union continues to be bad. Feeding that vast population will be a daunting task indeed. A young scholar, Gabriel Schoenfeld, has written most perceptively in the December "CSIS Report on the U.S.S.R. and Eastern Europe" concerning problems of food production and public health in the Soviet Union. I believe we can all benefit from Mr. Schoenfeld's words and I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET BUTCHERY UNMASKED

(By Gabriel Schoenfeld)

First the good news from the Soviet republic of Kazakhstan. Medical authorities in the city of Aralsk have lifted the quarantine they imposed after an outbreak of plague. Investigators successfully traced the disease to infected camel meat sold at the city's central market.

Now for the bad news from the rest of the USSR. In a country already suffering from dramatic food and medicine shortages, diseased livestock are causing a major agricultural and public health crisis. "We are dealing with a phenomenon which is assuming the ungovernable nature of a natural disaster," reported Izvestia economic affairs commentator I. Abakumov in November. The newspaper estimates the cost to the economy from infectious livestock diseases in the billions of rubles.

In Aralsk, situated on the desiccated Aral Sea, the authorities are continuing to take prophylactic measures. The local Anti-Plague Scientific Research Institute is mobilizing to track down rodents. "Expeditionary parties of medics" are spraying pesticides into the burrows of large sand rats in an effort to destroy the fleas that carry plague, reports the news agency Tass. Private hunting of foxes, rabbits, and rodents has been banned; "mass inoculations" of human beings are also under way. Even a computer will be enlisted to study the outbreak. But the successful campaign for high-quality camel steak is just one small advance in combating a problem now emerging into public view.

In the United States, ever since Upton Sinclair wrote The Jungle, the food-processing industry has been carefully scrutinized by the press. In November, articles in the Wall Street Journal and the Atlantic Monthly focused on the health risks posed by defects in our poultry inspection system and the widespread marketing of disease-tainted chicken. Until very recently the Soviet press has been unwilling or unable to write about the USSR's much more severe problems in this area. The information that the media have thus far provided makes it difficult to judge whether this is a new problem or a long-standing one made worse by the overall deterioration of the Soviet economy. Either way, Izvestia admits that when it comes to the purity of the food supply, "press censorship has always kept such secrets from the population." Even if glasnost now reaches the Soviet food-processing industry, the sources and scale of its problems mean they will not be easy to address.

In Donetsk oblast in the Ukraine, the region's chief state physician reported in November that only four out of 432 farms are considered "healthy." He describes a "very alarming coincidence" of illness among diseased farm animals and human beings. The physician is worried by statistics indicating that people have been afflicted with lymph and blood disorders in virtually the same localities where there are sick livestock. In these areas, he says the "level of morbidity is growing menacingly, as evidenced by statistics for 30 of the oblast's cities and rayons over the past 10 years."

Kazakhstan is the third largest meat producer of the Soviet republics and currently 300,000 of the Kazakh cattle herd are reported by Moscow television to be ill with tuberculosis, brucellosis, and other diseases that are communicable to human beings. As a result the local milk is "dangerous to people's health," said a recent broadcast, and the food produced by dairy farms in some locations is also "unsafe." Izvestia describes the agriculture crisis that has arisen as an "extraordinary situation" that should be regarded as an "ecological catastrophe." The illness among livestock is attributed to housing cattle in dilapidated sheds that have deteriorated after years without maintenance and chronic underfeeding due to shortages of fodder. Third quarter economic statistics for 1990 indicate that "the situation with the provision of fodder is bad" in six republics, including Russia.

In theory the Soviet planning system contains safeguards designed to protect the public from unhealthy produce. Centrally imposed agricultural regulations dictate that milk from diseased cows be specially pasteurized. Sick animals must be slaughtered in a "sanitary abbatoir." If this is not available, the animals must be placed on a general conveyor after the slaughter of healthy animals is completed.

In practice, however, such measures are routinely ignored. Izvestia has explained how the slaughterhouses really work: "Let us not be naive, in reality, in our meat combines and dairies, livestock products everywhere move in a single flow, and all these well-meaning instructions have no effect on this flow." How can you discard all the substandard carcasses, one local official wonders, "and at the same time fulfill or even overfulfill the stepped-up plans and socialist pledges issued from above?" But the answer is all too clear. With the Soviet economy now gripped by scarcity and long queues, the pressure to bring bad produce to market is greater than ever.

FOXES IN THE COOP

Although the introduction of market mechanisms into Soviet agriculture in a 500-days type of reform might improve the quality and supply of meat and dairy products, no Western countries trust the market alone to assure a safe food supply. Government-operated inspection agencies in all advanced countries are charged with regulating health and safety standards.

Because market mechanisms and incentives are not in place and the central planning system has run amok, the Soviet Union today enjoys neither the discipline of the market nor the safety mechanisms offered by government regulation. The results of these trends, says Izvestia about declining food safety, is that "state control has been practically lost, anything can happen and be concealed: There is no one to sound the alarm."

The inadequacies of Soviet statistical data make it difficult to obtain a view of Soviet problems that would allow comparison with the experience of other countries. It remains possible that the alarming tone of the new Soviet reports is not justified by the scale of the problem and is just another manifestation of the atmosphere of crisis and panic that has enveloped Soviet society. On the other hand, major deficiencies in the structure of the Soviet inspection system seem to virtually ensure that bad meat and milk are

brought to market and sold to unwitting consumers.

Veterinary inspectors fall under the supervision of government-run collective and state farms, entities that are under intense pressure to fulfill their sales quotas. The same arrangements are in place in meat-processing plants and dairies where the veterinary inspectors are "materially dependent on management." With the foxes inspecting the chicken coop, the results are all too predictable. A food-poisoning case this past summer in the Central Asian republic of Kirghizia is typical. The veterinary services there, Izvestia reported in August, are facing criticism for the "umpteenth time" for their "irresponsible attitude to their official duties." The inspectors' most recent oversight led to an outbreak of "external-type anthrax" after infected meat was sold to a sausage shop. Only when consumers fell ill were measures taken to contain the disease. The authorities have announced that the "sausage shop has been destroyed."

PROSPECTS

Because all the trends in Soviet agriculture are unfavorable for resolution of this public health problem, such episodes will continue to recur. Mikhail Gorbachev has been virgorously procrastinating with reform of his country's failed farming and food sector; five years of perestroika have added five years to the age of the country's antiquated food-processing infrastructure. All of the changes he has introduced have been piecemeal. Some large farms have been partially broken up into small ones; but whatever productivity benefits are derived from this, it has made proper inspection of produce all the more difficult to carry out. If diehard opponents of reform successfully blame decentralization and the market for outbreaks of mass food poisoning and disease, the prospects for an overhaul of the USSR's agricultural sector will be bleaker than before.

The Soviet Union, naturally, hopes that the West can rescue it from its current slide. In November the U.S. Department of Commerce sent over a delegation of government officials and businessmen to take a comprehensive look at Soviet food industry facilities and needs; already an Alaska firm, Indian Valley Meats, is engaged in one of the few profitable U.S.-Soviet joint ventures. Operating out of the far-eastern Magadan oblast, the company is helping a collective farm upgrade the processing of reindeer meat. Hard currency profits come from selling pulverized antlers to South Korea for use as an aphrodisiac.

Given the scale of its problems, there are undoubtedly other opportunities apart from antler aphrodisiacs for Western companies to make money in the Soviet meat market. After its success with reindeer, the Soviet Union will be looking for other Western partners. Perhaps MacDonalds will find it profitable to help them flatten out the humps in their camel burger processing.

NATIONAL BREAST CANCER AWARENESS MONTH

Mr. KERRY. Mr. President, I rise today to express my concern about breast cancer, one of this Nation's most serious diseases. Cancer is the second leading cause of death among women, and breast cancer affects one out of every nine American women. The incidence of this disease has risen by a third over the past 10 years. A new case of breast cancer is diagnosed every 3 minutes, and another death occurs from this disease every 12 minutes. That adds up to 175,000 new cases this year and 44,500 deaths.

This month is National Breast Cancer Awareness Month. I commend the many groups like the Breast Cancer Coalition that have played a critical role in educating legislators on the need for improved breast cancer research and screening. All across America, concerned citizens, many of whom are stricken with this disease, have written their Senators and Representatives to request increased attention to this national problem. I have received almost 2,000 letters regarding breast cancer from distressed citizens of Massachusetts. The personal tragedies related in these letters are truly devastating. Mothers, wives, daughters—countless women who have died prematurely and suffered intensely due to a disease we can conquer.

We must move effectively and immediately to counter this threat. We must discover the reason why this disease is so prevalent among today's women, and why the mortality rate from it is the same as it was over 50 years ago, in the 1930's.

Until the discovery of a cure, early detection of breast cancer will play a critical role in the survival of affected women. It is estimated that early intervention may prevent up to one-third of all breast cancer deaths. Regular mammographies are an absolutely crucial component of any plan to prevent breast cancer deaths. Because two-thirds of those with breast cancer are over 50, older women, especially, must have access to reliable and affordable screening.

In an effort to take positive steps, I have supported several bills in the 102d Congress that deal with breast cancer. Earlier this year I voted for an amendment offered by Senator TOM HARKIN which would have transferred approximately $3 billion from the Department of Defense to several domestic programs. Included in this proposal was $50 million for breast cancer screening. Unfortunately, this transfer conflicted with last year's budget agreement and was ruled out of order.

Currently, I am a cosponsor of the Cancer Screening Incentive Act of 1991—S. 891. This bill, offered by Senator CONNIE MACK, provides refundable tax credits for qualified cancer screening tests, including mammographies. I also am a cosponsor of the Family Planning Amendments Act of 1991 (S. 1197), offered by the senior Senator from my State, Senator KENNEDY. This bill mandates that all programs receiving assistance from the Government for family planning also provide education regarding breast cancer and self-examinations.

Possibly most significantly, I am a cosponsor of Senator BARBARA MIKULSKI'S Women's Health Equity Act of 1991 (S. 514). I support the overall goal of this legislation—to provide equity in the delivery of health care services to women, including expanded research of women's diseases, improved access to health care for all women, and development of disease prevention efforts. This bill provides an additional $25 million to the National Cancer Institute for breast cancer research. Additionally, it requires doctors to give written information regarding all of their options to their patients diagnosed with breast cancer. The bill also provides for the certification and licensing of providers of mammograms, and amends the Medicare Act to cover regular screenings for all women over 35 years of age.

Mr. President, I believe this deadly disease can be stopped and I am strongly committed to taking further steps toward the prevention and elimination of breast cancer. I ask my fellow Senators to support these efforts. I know that by working together we will beat this disease.

AMERICA NEEDS AM STEREO STANDARD

Mr. PRESSLER. Mr. President, I would like to bring to the attention of our colleagues a new publication by the Information Management and Technology Division of the General Accounting Office [GAO]. The report is entitled "U.S. Communications Policy: Issues for the 1990's," it is the transcript of panel discussions by national experts on a number of telecommunications issues.

One panel addressed the future management of the spectrum. In this discussion, members of the communications industry and Government officials described their policy recommendations to ensure efficient allocation and use of the spectrum. The panelists' recommendations ranged from spectrum assignment through auctioning to the need for a national standard on Digital Audio Broadcasting.

In this discussion, a number of panelists used the Federal Communications Commission inaction on AM stereo standards as the No. 1 example of failed Federal Government communications policy. As our colleagues know, in 1981 the FCC declined to choose a standard AM stereo system, thus allowing the marketplace to decide the matter. Unfortunately, this has not happened.

The inability of the marketplace to decide between competing systems has left consumers, equipment producers, and broadcasters in limbo. In fact, one panelist who is a former FCC Commissioner, called the FCC's indecision on AM stereo a "catastrophe" and stated further that "the marketplace is still thrashing about between two standards."

I have introduced legislation that would correct this inequity. This legis-

lation, S. 1101, would direct the FCC to conduct a rulemaking and establish a national AM stereo standard.

Mr. President, we need to act now to avoid falling further behind in the development of AM stereo. I ask unanimous consent that the text of the GAO panel discussion on spectrum management appear in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the General Accounting Office, Information Management and Technology Division, September 1991]

U.S. COMMUNICATIONS POLICY: ISSUES FOR THE 1990'S—PANELISTS' REMARKS

SPECTRUM MANAGEMENT

Ms. DENNIS. This morning we had a nice segue to the issue that we're going to be discussing this afternoon when Henry Geller started out with his wish list of a number of policies that he would like to see changed or implemented. Among them were flexibility and the usage of spectrum and auctions as a different means of allocating spectrum.

First, we should ask if anything is broken. What is wrong with the current method of allocating spectrum? Clearly with the burgeoning of personal communications and the need for spectrum; the need of industry for mobile telephony; and the need for small business users, for example, to be able to use mobile phones in their cars to enhance productivity and increase productivity in this country, the specter of spectrum wars is increasing.

I'd like to start with Dick. I know that there has been a spectrum study, the results of which have not yet been released by NTIA. It was started last year. Why did the Commerce Department think it important to look at spectrum issues?

Mr. PARLOW. Well, Patricia, I think we can look at the subject of spectrum and the use of radio communications and agree that new technologies provide the potential for many new service offerings to our governmental agencies, the private sector, and to the general public at large. Spectrum and the management of the radio spectrum is an extremely important subject that has received a lot of recent attention nationally and internationally.

If you look back over the years, you'll see that spectrum management hasn't received a real hard look in over 20 years. Our view regarding the need to review the process complements the actions of a lot of U.S. industry—and I think it's something that we see happening in government more often—the concept of total quality management, where we can look at processes and the products and the customers, recognizing that there is always room for improvement.

Our view was that a need to look at it existed, a need to look at the processes and a need to look for areas of improvement. We also recognized the fact that it's a subject that is extremely important to our federal agencies and our industry and to our competitive picture around the world.

It was our view that it was timely, and there were a number of key areas that had to be looked at. We felt that it was important to take a look at our regulatory process and the relationships that are there. We felt that it was extremely important to take another look at the way spectrum is blocked out by various services. Anyone familiar with the process can recognize, just by looking at the allocations table, that it's a real hodgepodge of services and of footnotes, and this tends to be somewhat restrictive in terms of opportunities for innovation and flexibility. It's important to look at ways of incorporating more flexibility in the process so that our entrepreneurs and industry can move on and do a much better job.

One other area that we felt was important to look at is the concept of spectrum value and the introduction of economic considerations in the disbursement of spectrum. This morning, Henry Geller made some comments with regard to this subject, and clearly it's an area that needs to be addressed.

Ms. DENNIS. You mean a different way of allocating spectrum?

Mr. PARLOW. Of disbursing spectrum other than by just the processes as we see them today, a process that takes into account the economic dimensions, the value of spectrum, and competitive bidding. That's a subject that I'm sure has received, and will continue to elicit, a broad variety of views.

Ms. DENNIS. Dick, I have one final factual matter. I've read a lot of conflicting analyses of how much spectrum is allocated for government use, how much is allocated for commercial use, and how much is shared. What is NTIA'S view of the actual fact?

Mr. PARLOW. Well, the Dingell bill said that the government controls 40 percent of the spectrum below 5 gigahertz. If you look at all the allocations and the footnotes and things like that, I think you will find that in that block of spectrum——

Ms. DENNIS. What do you mean by "footnotes?"

Mr. PARLOW. Footnote allocations. In addition to the allocation table, there is a footnote that says a particular block of spectrum or group of frequencies can be used by any number of users, government and nongovernment, for the various purposes.

So getting to the bottom line, roughly about 15 percent of the spectrum is used exclusively by government users and around 30 percent is used exclusively by nongovernment users. The rest is primarily shared. So most of the spectrum is shared in one form or another. But there is a certain amount of imprecision in coming up with those numbers. I think that the key is how you take and meet the national needs and the mutual interests of both the government and the nongovernment users in the national interest. I think that's what the spectrum manager's goal ought to be.

Ms. DENNIS. Have you reached any preliminary conclusions? In other words, is the process broken, and do you need to fix it?

Mr. PARLOW. I think that there are a number of things that can be fixed. Right at the present time, we're just in the process of doing the final editing and putting points together. I think that it will be out on the street very soon.

Ms. DENNIS. Anything you can share with us now?

Mr. PARLOW. I think there will be a definite recommendation to apply competitive bidding for new spectrum that's made available. I think there is also a need to incorporate significant additional flexibility into the allocation process. I think that is extremely important because the services are becoming much more blurred. If you consider mobile satellite, there is maritime, and aeronautical, and land mobile. All services look similar; they're all being provided from similar platforms. Why not just call them all the same thing? I think that this would provide additional flexibility. These are just two very short little examples.

Ms. DENNIS. Doctor Stanley, when I first came to the Commission in June of 1986, there was a docket ongoing at that time, the 800/900 megahertz docket. It was quite contentious. I was told that I was going to break a tie, although it was one-one-one-one vote and not a two-two as some thought. It ended up being a three-two vote and we ended up allocating 10 megahertz to cellular carriers, 6 to public safety, and 10 to private radio; 4 were held in reserve.

I remember that in going through that process, there had to be a better way because I did not know where truth was. I had engineers who I thought were scientific—apologies here to engineers. But there were conflicting analyses by different engineers. It was very difficult, if not impossible, to assess the conflicting needs. How could you balance a need of a fire department to have spectrum in Los Angeles against the need of the cellular industry in that same city? It was very, very tough.

Has the Commission, because of the difficulty of making spectrum decisions and allocations, had the same approach, or is it looking at something different from the historical allocation process along the lines of NTIA? Are you going to listen to NTIA? What are you guys doing at the Commission?

Mr. STANLEY. That's a very good question. I would say that the Commission is largely following the same process that was there when you came and was there when you left.

Ms. DENNIS. A political one, then? You just get beat-up by all sides and throw your hands up and hope that you guess right?

Mr. STANLEY. I would prefer to describe it largely as one of an administrative decision. [Laughter.]

Mr. PARLOW. You're the salami in the sandwich. Remember that. [Laughter.]

Ms. DENNIS. Salami in the what?

Mr. PARLOW. Salami in the sandwich. You're always pressured from all sides. [Laughter.]

Mr. STANLEY. Spectrum allocation is an administrative decision. For example, it was our job to bring forth the technical aspects of the administrative decision. There are significant policy and economic aspects. Not unlike other processes that are clearly judicial decisions, the current process depends on the political astuteness of Commissioners, such as yourself, as to how the commodity spectrum should be used.

I think that anyone that has done the job for more than 2 weeks would say that surely there must be a better way. We have struggled over the years to try to get more technical and economic information upon which to make the spectrum decisions a little clearer in one direction or another, but, I would say, that's still largely one of administrative detail.

Many of us inside the Commission look to a more economic distribution of the spectrum resource as something a little closer to being fair—to a decision that many people could probably live with. Spectrum economics is the longer-term way out of this; the FCC certainly has not been shy about pointing this out to a variety of Congresses and to the administration over the past decade.

Ms. DENNIS. I know that there have been some interim steps suggested, for example, flexible use the spectrum. Do you want to describe that and then tell us why the broadcasters objected to it?

Mr. STANLEY. Shall I describe it?

Ms. DENNIS. Yes, Tom, go ahead and describe it.

Mr. STANLEY. Let me just pick the example that I would consider semisuccessful. There is a very large hunk of prime real estate in 800/900 megahertz that you referred to. We

have 50 megahertz allocated to two cellular carriers in each community. Currently those numbers largely are—

Ms. DENNIS. And we'll get back to that set-aside later.

Mr. STANLEY. This is largely, I would say, a vestige of policies from the 1970s and the early 1980s as to how much spectrum that industry needed. It's pretty clear—and it became clearer in the mid-1980s decisions that you assisted with—that in some areas, if the pace of growth was to continue, even that spectrum was going to be used up. So the Commission asked, Why should the cellular industry have to come back to the Commission and ask for more spectrum or to be able to come up with a new technology?

So the Commission said in this particular band, the spectrum resource is largely the cellular industry's to develop in terms of technical standards and operational principles. So the use of alternative technologies, alternative operations that would lead to a more complete use of the band, was virtually exclusively in the hands of the cellular providers themselves. In effect, this will be the means for getting from the first generation of cellular technology that we're using now to the second generation.

If you look at it this way, you'll see that the first generation took us 11 or 12 years to implement. The second generation is simply a matter of sending a postcard to a deputy division chief in the common carrier bureau. So we really feel that there is no regulatory barrier now because of this flexibility. We're very happy about that.

Ms. DENNIS. Why did you oppose it then, Barry?

Mr. UMANSKY. Because of our concerns over the flexible use of spectrum, based upon some of the most fundamental principles that have governed NAB's (National Association of Broadcasters) position on most spectrum issues.

Ms. DENNIS. You mean that we got it and we want to keep it?

Mr. UMANSKY. Basically, we want to have a nice, clean signal. We depend on the spectrum as our only mode of getting a program from point A to point B. We were quite concerned that the concepts of flexible use of spectrum and effective interference and many other principles that were being discussed during the 1970s and 1980s would not work to the best interests of our signal quality.

Right now we would like to see a continuation of the notion of block allocation of spectrum so that we can use that spectrum with certainty. The notion of progress and advancement in technology is not foreign to us. In fact, I'm hopeful that later on today, we'll be talking about a whole variety of ways that we would like to have that certainty of allocation in order to enjoy technological advance. We're on the cusp of HDTV.

Digital audio broadcasting is within our grasp provided that there are the right choices made by this government in terms of spectrum allocation and taking best advantage of that mass of stations now distributed equitably among states and communities. There are 11,000 radio stations and 1,500 television stations. We think that this group of broadcasters, providing a free service—as George Vradenburg discussed earlier today—should not be ignored as we move into the future. There is no reason why we couldn't use new technologies to enhance that service for the public free of charge, something that no one else at this table plans to do.

Ms. DENNIS. Leonard, your former Chairman of the Board, Bob Galvin, gave a fascinating speech a few years back. He talked about that big hunk of UHF spectrum that broadcasters currently have allocated. Would you like to share with us his vision and respond to Barry here, if you can?

Mr. KOLSKY. First, let me say what Bob Galvin didn't say, because that misconception aroused the furor in the broadcast community. Bob was not giving a view of 1988, 1989, or 1990; rather he was projecting over a 40-year period. He carefully pointed out that if one went back in time and tried to project what the world telecommunications would have looked like in 1987 when he made the speech, it would have been dramatically different than one could have foretold.

It was his belief that over a 40-year period, it would be improbable, unlikely, and undesirable for the radio frequency spectrum to be the carrier of what we'll call entertainment communications. He felt, and feels, that that is ultimately going to be carried by cable and that those channels, that spectrum, will ultimately be freed up for more 21st century kinds of developments.

I think that on a logical basis, he is correct. I agree with what you said earlier—and this doesn't apply just to NAB—all the "haves" want to keep on having and they don't want "have nots" in. I don't expect NAB to embrace this concept today, but ultimately we're going to have to make spectrum allocation a part of a national policy and not just the purview of private interest. I think Bob Galvin was pointing in that direction.

Ms. DENNIS. There is an underlying assumption in the Dingell bill—it's not so underlying—that there is a spectrum shortage and that there indeed will be spectrum wars. Morgan, do you believe that?

Mr. O'BRIEN. Yes, I think there is a spectrum shortage as long as there are businesses who would make the investment to provide a service if there were spectrum to do it. We know from the PCN (personal communications network) proceeding at the Commission that there are probably dozens of such businesses, all of which, if they knew where to put it, would be putting some kind of a new personal communications network in place. But at the moment, there is no such place. You would have to say that there is an example of a shortage of spectrum.

Now, there may be spectrum that has been misallocated and that is being underutilized. In that sense, if you want to step back, you might say that there is sufficient spectrum but that there is just a faulty allocation and assignment process.

Ms. DENNIS. Can you give us an example of that?

Mr. O'BRIEN. If you look at all of the uses of spectrum in the private radio area, where I have most of my experience, you'll see that you have a great deal of spectrum that is allocated into fairly discrete blocks for particular users. Those users are not distributed evenly throughout the country, but the block allocation concept assumes that they are. It's a simplifying assumption, which in a lot of cases is wrong. For us to have maximum utilization of the spectrum, we're going to have to find a device for moving away from the rigidity of the block allocations.

Ms. DENNIS. Dale, do you have any thoughts on how to move away from the rigidity of the block allocations? Everybody on the panel can just jump in as well.

Mr. HATFIELD. I think that we've already touched on this matter, to a certain extent. First, existing users who have large chunks of spectrum should be given the option and the flexibility of using their spectrum in the way that will put it to its highest-value use.

Ms. DENNIS. As long as it doesn't interfere with anyone else.

Mr. HATFIELD. Right, just like we do with real estate and so forth. The government has a very definite role in protecting property rights, and it would do the same thing here—

Mr. SHOOSHAN. Can I interrupt for just I second?

Mr. HATFIELD. The government should allow the licensee to decide how to use it and give them the ability to transfer it to others.

Mr. SHOOSHAN. Dale makes a very good point. What if the recipient of that largess doesn't want it, as in the case of the NAB? It said, "Thank you, but we don't want that flexibility."

Ms. DENNIS. Does the government then force it down their throats?

Mr. HATFIELD. I guess I ultimately believe enough in the marketplace that I would give the individual broadcasters the right to use spectrum in the way they chose. If for some reason they don't choose it then they are not profit maximizers; I think we have other problems in the economy. Our system is based upon profit maximization, and if people were given the flexibility, they would use it. So, yes, I would give them the flexibility.

Mr. UMANSKY. You're talking about the "haves" and the "have nots." For example, I think that if you remove video from the spectrum and rely on fiber and cable television, it would be a tremendous loss. In terms of the issue of using the same portion of the spectrum for different purposes, that takes away a very critical element of certainty for receiver manufacturers, for the public, for broadcasters, and for everyone else.

It's really unrealistic to think that you can use in Des Moines a frequency for over-the-air television and use it for something else in Mississppii. I think that these are interesting theories, but they don't really wash in the real world.

Ms. DENNIS. Why is it upsetting?

Mr. UMANSKY. Why is it upsetting?

Ms. DENNIS. I didn't quite hear the word that you used, but you said that there is a problem with using the spectrum differently in Des Moines than you would in another city. Why is that?

Mr. UMANSKY. The notion is that consumers should be able to invest in a receiver and use it nationwide. Manufacturers want to have certainty of knowing where that spectrum is going to be and having technical standards that are clear and distinct. That's another thing that we're trying to push with the FCC now. While you have the non-decision in AM stereo, the FCC moved back to the right decision with TV stereo. We hope for the same for HDTV. We hope that for digital audio broadcasting there will be a single selection of a standard so that we can move ahead and have that kind of certainty for investment Block allocation has taken a bum rap thus far in our decision. It has been that kind of certainty that has led to the kind of investment that has resulted in tremendous technological advances in this country.

Mr. SHOOSHAN. Maybe Leonard can comment on this. It seems to me to be an assumption in what Barry just said that we couldn't, with all of our microprocessor capability and fancy electronics that we have available today, build equipment that would work unless we had a block allocation approach.

Mr. UMANSKY. At what additional cost, though?

Mr. SHOOSHAN. That's the question I want to ask Leonard.

Ms. DENNIS. Is it cost prohibitive?

Mr. SHOOSHAN. Right, is it cost prohibitive?

Mr. KOLSKY. I can't really answer whether we could apply techniques that are going to be used in the land mobile field to broadcast, but there is no doubt that we're moving to a point at which transmitting and receiving—

Mr. SHOOSHAN. I want to make sure that you understand my question. Maybe I asked in inartfully. The suggestion was that one reason that you couldn't use UHF spectrum in one part of the country for television and in another part of the country for mobile radio was that it would impose certain costs on the building of transmitters and receivers that would swamp the value of having that mixed use.

I'm just asking you, from your perspective, from a technical point of view, Couldn't we build radios that worked in that environment?

Mr. KOLSKY. I think I was answering your question. I'll answer it in two ways.

Mr. SHOOSHAN. Okay.

Mr. KOLSKY. First, as I started to say, we're going to have transmitters and receivers that are essentially frequency insensitive because channels are irrelevant to the typical user, whether he be a broadcast listener or a land mobile transmitter. All he wants to do is talk and be received. So we can do that.

What I don't know is whether that same set of technical principles can be applied to broadcast spectrum commingled with land mobile.

Now for the second question. What we have today, at least in the land mobile field, is an urban congestion problem. We don't have a national congestion problem. If you go to Wyoming or Iowa, you can find broadcast channels available and you can find land mobile channels available. Now we're getting to the point that if we're going to implement a—let's call it technical flexibility, for example, digital—the issue is: Should we impose that technology on the entire nation even though there are large geographic areas that don't need it, in order to achieve economies of scale, or do we just put those improvements in where they are needed?

If you're talking about cellular, you might argue that as a national system you would have to put in a common technology for an across-the-nation compatibility. In the private land mobile field, we don't think that's necessary. And we expect that there will be a surgical scalpel kind of approach, not a meat-ax approach, to bringing these telecommunications improvements in. I don't see why you couldn't apply the same principle to all services.

Ms. DENNIS. Morgan, speaking about being much more surgically oriented, do you want to tell us a little bit about what Fleet Call is trying to do?

Mr. O'BRIEN. Well, we're a company that very much believes that the FCC says about improving the efficiency of spectrum voluntarily. It just makes a lot of sense.

We acquired a number of frequencies in the most congested markets in the United States that were available for SMRS (specialized mobile radio), and we have consolidated them and aggregated them. We now are seeking permission to move the technology to the next generation and digitize and whatever. So although there is no Commission requirement that we do that, that we make the investment to do it, our desire to serve the market that we see out there is driving us to do it.

So if the Commission creates an environment—and I really think it has—an environment in which entrepreneurs are given incentives without the need for regulatory intervention to move to the next generation of technology, as the Commission has done with cellular, which Tom talked about before, it makes perfect sense. It's just a much better way of doing it. If we give the entrepreneurs the incentive, they will make the investment to bring new technology in increase the capacity of the spectrum.

Ms. DENNIS. When you talk about increasing the capacity, isn't the cellular industry itself having difficulty picking a standard to go digital? Tom, do you want to address that?

Mr. STANLEY. Sure. Having difficulty, yes, but it's not an easy problem to begin with.

Ms. DENNIS. But won't that enhance the capacity of the spectrum?

Mr. STANLEY. That is correct. The same system that is currently being fielded was designed over a decade or so ago, and the industry is rightfully proud of going through a very rigorous process of looking at next-generation alternative technologies for feature-related improvements, for spectrum efficiency improvements, and so on.

Standards-setting is not an easy decision process. In a sense, I'm kind of happy that the industry is doing it, and I'm not having to understand the issues and then try to package them up and convince a Commissioner that it should be CDMA (code division multiple access) or TDMA (time division multiple access). I think the best people making those close to the problem, namely, the operators and the manufacturers.

Ms. DENNIS. But you heard earlier today that there are some who believe that government should intervene more, that standard-setting is an area where there should be more government intervention and not less. In fact, Barry just mentioned the catastrophe of the early 1980s when the Commission did not choose a standard for AM stereo but indeed left it to the marketplace, and the marketplace is still thrashing about between two standards. What do you think?

Mr. STANLEY. The point is a good one, and maybe the cellular is a great contrast. But generation one of cellular was completely defined, detailed, and developed and then put under the FCC's rules. It's the most regulated thing you can imagine. The second generation is virtually without the same kind of technical detail. We have some relatively minimal interference requirements. Not interference to yourself, but interference-to-your-neighbor-type rules.

HDTV is another very good example, although the FCC has yet to package up the alternatives. I don't want to call the process regulatory or deregulatory, but my guess is that the decision will involve fairly clearly defined options as to what the service is, where it should go, and what some of its major features are.

So I would hate to characterize the Commission in any one of its decisions as very regulatory or deregulatory. It looks as though it's a shifting partnership. In some areas, the Commission is very clear about wanting certain details nailed down. In others, it's not necessary for the FCC to specify every little jot and tittle of the regulations.

Personal communications, as several people have mentioned, actually has both regulatory and deregulatory extremes. Many people look to the radio part of PCS as not necessarily having to be regulated, since it's all very low-power communications—microcell—and very close to the personal side. But by the same token, they leap in and say that, therefore, you also need a particular worldwide uniform numbering system.

So some degree of detailed structure or guidelines in communications regulations seems to be necessary. We kind of look at each system and service as the decision comes up. We don't look for things not to do.

Mr. SHOOSHAN. It seems to me that there is a fundamental trade-off that's sort of lurking beneath the surface in a lot of comments here. I want to see if I can being that out.

To some extent, it appears that it's the trade-off between getting more spectrum and using the spectrum that one has more efficiently and that in effect we have perhaps a skewed environment today, meaning it's relatively costless to an industry to go to the government and ask for more spectrum. In fact, once you go through the regulatory process, we give it away for free, in effect.

On the other hand, it's very costly to change the technical standards to use the spectrum more efficiently. It imposes costs on the service provider and on the consumer who has that equipment out there. So the tendency under the current environment is always to go the government and ask for more spectrum rather than creating incentives to use the spectrum that industry has more efficiently.

Is that a legitimate concern? If so, how can we change the signals so that government can make a more informed decision along those lines?

Mr. PARLOW. It seems to me that basically there is no more spectrum. That avenue seems to be foreclosed right now.

Ms. DENNIS. At least in the short term. I mean, if the Dingell bill gets passed—

Mr. PARLOW. But even there, Patricia, it's going to have to be taken from somebody on the government side and handed over to somebody on the other side. The days of the FCC—and the 800/900 megahertz—were taken away from UHF television use. Everything is going to be in the nature of refarming. There will be no easy decisions.

Mr. SHOOSHAN. How are we going to make those decisions, then? Is it going to simply be a political call by the FCC?

Mr. UMANSKY. It can be a technical call. If you look at the future that we talked about from the broadcast side, you'll see that the HDTV systems that we begin testing this spring by and large are much more spectrum efficient than the NTSC (National Television Standards Committee) system, as it is used right now for over-the-air television. Digital audio broadcasting, the Eureka 147 system, which is being given the most scrutiny by the industry right now, is four times more efficient than FM radio.

So I think the broadcasters that we represent are not the spectrum gluttons that they are sometimes characterized to be. We look toward a future, after a transition period, of much more efficient use of the spectrum. I think that the Dingell bill and the Inouye bill are good ideas. We've been supporting them publicly.

Mr. PARLOW. I also think that if you look at the spectrum that's out there today, you'll see that there's nothing that's going to be coming free. I think Morgan brought that out. If there are going to be changes in how the spectrum is being used, there will have to be changes, transitions, and people will have to be moved, whoever they may be. Morgan mentioned earlier quite specifically that his organization, Fleet Call, saw an opportunity. The opportunity was to be innovative and try to make that spectrum that he has available more efficient and more effective in bringing in new technologies.

I think you're seeing that same thing happening in the cellular side. I was out to the

CTIA (Cellular Telecommunications Industry Association) convention and talked to a number of people out there. When I see what things are being done in terms of looking at all the different modulation schemes, sectorized antennas, and lots of other things, I can see a tremendous amount of capacity. That capacity is now being generated because of the demand that is being created out there in those very highly congested areas. As Leonard said, the problems are in the city areas and not out in the boondocks someplace.

Mr. O'BRIEN. If the cellular industry thought that it could get new, clean spectrum for nothing, obviously it would take that because that's the cheapest solution. But it's clear that there isn't any more free spectrum.

Mr. SHOOSHAN. Let me ask a question. Let's assume that the Dingell and Inouye bills pass and we have 200 megahertz of spectrum at some point that can be utilized. How should we make the decisions about what it's utilized for? And once those decisions are made, who gets to utilize it? The administration, in its latest proposal, has talked about a spectrum auction of some kind, I believe, for about 30 megahertz of that spectrum. There at least is a suggestion that has been put on the table.

Let's assume that we do find more spectrum for commercial application. How should it be allocated? How should it be assigned? What are the mechanisms that we ought to use? Dale, do you want to address that?

Mr. HATFIELD. First, let me go back to your earlier point and take that one on directly.

Mr. SHOOSHAN. Okay.

Mr. HATFIELD. When you say that there is a choice here between trying to get more spectrum or trying to use existing spectrum more efficiently, I think that's the right issue. What do we rely upon to do that? We rely upon price signals. You have to have the right price signals, and having them then guides the behavior in the marketplace.

We have the same thing here. The obvious solution is to try to go to some sort of market mechanism, particularly an auction sort of scheme or something like that, so that people make rational choices concerning whether to use more spectrum, use wire, or use another technology. So to me it goes right back to the pricing.

Ms. DENNIS. How is public safety going to bid?

Mr. HATFIELD. Well, we don't give public safety free gasoline; we don't give public safety free ambulances; and I'm not so sure why we necessarily, as a matter of public principle, have to give it free spectrum. Having been here in Washington a few years ago, however—[Laughter.]

Mr. HATFIELD.—I realize that may not be politically possible.

Mr. SHOOSHAN. Did you ever get visited by the Los Angeles County Sheriff's Department?

Mr. HATFIELD. You bet I did. And I understand that. So if that's true, the same way we allocate land by setting it aside for public parks and for other public uses, if we need to do that here, that's fine.

Mr. O'BRIEN. I would argue that that's what the FCC does well. It can do that.

Mr. HATFIELD. If you don't do it, though, you're going to count on the fact that public safety will put in multiple channels when it could get by with one because it will get the spectrum free. You should realize that if you give it to public safety free, you're going to encourage some inefficiency on its part. But maybe that's what we have to do to move toward a more market-oriented solution. Maybe we just have to zone it that way to begin with.

Ms. DENNIS. Leonard, do you want to say something?

Mr. KOLSKY. Yes. This issue is always sort of amusing to me. In the first place, Patricia, I thought that you, as FCC Commissioner, did a fine job, given perhaps inadequate information.

Ms. DENNIS You also got 10 megahertz, Leonard. [Laughter.]

Mr. KOLSKY. Then I have an office that has been driven to try to improve that spectrum because there isn't any more.

But let me get back to the auction point. In the first place, every time auctions are mentioned, people say that we can't take on broadcasting.

Ms. DENNIS. Why do you think that is, Leonard?

Mr. KOLSKY. Because we can't take on broadcasting. [Laughter.]

Ms. DENNIS. Come on.

Mr. KOLSKY. I see that Dale is now going to exempt public safety. Pretty soon, you'll have three or four cats who are fighting over a scrap. That scrap, therefore, is going to have a disproportionately high value. What we have been advocating is that if you want to auction spectrum, let's auction all spectrum. Now let's create a real valid balance between supply and demand. Then if the market value of spectrum is whatever it is, that's fine. But I think that if you take a sliver of spectrum and take services such as cellular private land mobile, and some others and argue over it, what's going to happen is inevitable. If you go to an auction, there isn't much doubt about who is going to win that battle, is there?

When you start to exempt public safety, I think, there are two problems. First, you have to make a decision about how much you're going to save for public safety. Then let's assume that the auction is a success. Does anybody really think that next year, people won't say that public safety can get by with a little less because that would put more in the auction pot?

I think you make those judgments all the time. If you want to—

Mr. SHOOSHAN. Leonard, don't you think, though, with all due respect, that the problem is that if we do this in one area—such as this new spectrum for PCS—it might work and that will undermine all the myths about how we can't use a market?

Mr. O'BRIEN. Are you suggesting that it would be new spectrum today and old spectrum tomorrow?

Mr. SHOOSHAN. I'm saying that—

Mr. O'BRIEN. What need do we have for auctions once the only available spectrum has been made available?

Mr. SHOOSHAN. Proceed on my premise, Morgan. We're talking about new spectrum that is going to be made available after the passage of the Dingell bill.

Mr. O'BRIEN. Right.

Mr. SHOOSHAN. Let's assume that happens. As a matter of public policy, how would you assign that spectrum, and then how would you award the use of and the licenses for it once it's been allocated?

Mr. O'BRIEN. I'm somebody that has been through dozens of private auctions for spectrum, so I think anybody who argues that we don't have spectrum auctions now just has never been in one. I would much rather see that money go to the government than to every Tom, Dick, and Harry.

So I'm in favor of it. I'm just trying to raise the question of whether you're looking at auctions as a redistribution of existing spectrum mechanism.

Mr. SHOOSHAN. I'm looking at auctions as a way of getting some market signals to come back to decisionmakers so that Tom Stanley's job can perhaps be done more efficiently. Tom, do you want to comment on that?

Mr. STANLEY. Yes, let me repond. I would say that the most direct response to your question really is that we have two major paths. First, we have the existing administrative process, sort of a battle of hyperboles, in terms of who needs more and who needs what. That's something the Commission can sort out.

Ms. DENNIS. That's a kind description.

Mr. STANLEY. Yes, I was trying to be polite. [Laughter.]

Mr. STANLEY. The alternate path, I think, is a political one. It is a political process, and it will take a political process to change it. You're hearing a lot of this here—and, I guess, we've heard it in different forums—that if a particular community—say manufacturers; operators; or, heaven forbid, the communication bar—has no real reason to change a particular process, it doesn't get changed. In a sense, who has the incentive? Where do you hear that there has to be a better way? You hear that largely from the Federal Communications Commission, which has to implement a change. It knows how imperfect a process it is.

Ms. DENNIS. One of the things that we would like to do is to encourage more audience participation. I understand that there are some people out here with burning questions. Now they have become silent. Is there anyone who would like to ask a question now?

Mr. SHOOSHAN. Who is on fire to ask a question?

Mr. WEBRE. My name is Philip Webre with the Congressional Budget Office.

I was interested in talking to the people who would be arguing against the NAB position. When you talk about putting in essentially smart land mobile radioes that can tell your frequency, you're talking about a situation where you have at most a few hundred thousand of those units.

There are, I think, about 200 million NTSC receivers out there. The question of changing them over to different parts of the spectrum strikes me as not a technically or economically small issue. So I would be interested in hearing more about what you're going to do if, in fact—and I suspect that Mr. Hatfield is right and that he can auction off his spectrum—they start doing it and pretty soon all the 200 million television sets out there are useless.

Mr. SHOOSHAN. What's the question?

Mr. WEBRE. I'm interested in playing out the economic scenario. If that is the inevitable road, as I think you are forecasting, that you're going to go into, as a political animal, I would say that there are going to be a lot of forces that will go in there to stop it, even the small auction that there is, because of the inevitable train of events that might follow.

Mr. HATFIELD. I think you have an underlying hypothesis there that I don't think I'm quite willing to accept. For example, the way that HDTV will be done to put a signal into currently unoccupied channels in a way that will not cause interference to existing sets. So I would argue that if one can put an HDTV signal into an unused channel, one could also put a digital audio broadcast sig-

nal in that same channel and not obsolete existing television receivers as well.

So I'm not sure that the issue is quite as either/or as you're saying. Obviously, we do have a huge investment in existing receivers out there, and you can't allow people to run high-powered land mobile radio systems on channel 12. I don't think that that's what is being proposed, though.

Mr. PARLOW. Dale, you've also brought up a very good point, that we're going more and more toward a digital world and a digital bit stream is a stream of information that can, in fact, be controlled. So there are many, many things that can be done with that. I think we have to be innovative in our thought process of trying to take advantage of that.

It may turn out over the long run—depending on what direction HDTV takes—you're going to have a totally new system out there and NTSC may just, at some point, cease to exist.

Mr. UMANSKY. I think you're both right. The question you had about land mobile's interference with existing television is absolutely a problem. It would be a huge problem. There is $66 billion worth of equipment in the hands of consumers, and they don't want to see these receivers not work.

The future of over-the-air broadcasting—there has been mention of HDTV and digital audio broadcasting—will, by and large, concern the movement to new spectrum. For digital broadcasting, there will be a transitional period. We want to have new spectrum to occupy, then eventually perhaps give up the existing FM spectrum.

AM can't really be used for much other than broadcasting and might be retained primarily for long-distance coverage. For HDTV, there are several scenarios being painted right now, but again, I think you're talking about how after a period of years, you won't have these kinds of conflicts.

Mr. O'BRIEN. It is true, however, that we share spectrum with the broadcasters right now, after the last 20 years. It can be done.

Ms. DENNIS. I'd like to ask a question—and you all just join in. The big, sexy issue right now is personal communications services. Chairman Markey asked at lunch why it suddenly became PCS after being PCN beforehand. I don't know whether that's important enough to answer right now, but on PCS, where do you think the spectrum is going to come from? Doctor Stanley?

Mr. STANLEY. That question should be directed to other countries; the answer is roughly in the 2-gigahertz arena. The Commission's inquiry into the process asked rhetorically, Why not 800/900, or why not this 2-gigahertz band? We may have mentioned others. But I think that in a sense, it is relatively wide open. We cannot look the other way, however, when a large fraction of the world seems to want PCN at approximately twice the current frequency.

Ms. DENNIS. Does everybody seem to agree with that statement?

Mr. PARLOW. Well, I think the technology is driving you into that block between one and three and it's a matter of where you select. I think that there are a lot of factors that come into play, one of which Tom brought out. Where is the rest of the world going? We're no longer an island. If we're going to talk about some kind of seamless communications infrastructure over the long run, if we want to have any type of mobility and roaming, if mobile is going to be the wave of the future—which I think it is—you have to recognize where the rest of the world is going. Either you influence it to go in the direction you want, find some middle ground, or go in the direction it wants. So it's a big trade-off. Where is it going to be? That's a good question.

Mr. KOBB. I hope that we get back to that point, but I have a question about an earlier matter.

I am Benn Kobb with Federal Communications Tech News.

I'm interested in how the advocates of spectrum auctioning propose to deal with the role of nonlicensed radio services, which promise to play an even greater role in PCS of the future. A number of the parties in the PCS inquiry are advocating nonlicensed services as ways to meet at least a portion of the need, possibly a lot of the need, for PCS. The FCC also has a proposal for a new part 16, which would take some of the successes in part 15 and fine-tune it a bit to make it more attractive and less risky for manufacturers. Who is going to advocate for an adequate allocation to nonlicensed services when there are no particular parties who would come in to contribute money to the federal government?

Mr. HATFIELD. I would just make a quick comment. I think that a nonlicensed service, by definition, doesn't convey a property right. If it doesn't convey a property right, it's kind of hard to auction it. I would look at that as more of a common area in which everybody has rights. Everybody can go into the Boston Commons. I think that that's more what you're talking about. I see those as being two very, very incompatible things. I don't see how you can auction something that you can't get any kind of exclusivity for.

Mr. SHOOSHAN. Let me ask a question just to try to get another set of policy issues out on the table here. One of the, I'd say, controversial aspects of the cellular decision, depending on how you approach it, was the set-aside of spectrum for the wireline carrier. To the extent that we are talking about policy decisions, Dale, I wonder if I might ask you to lead off on this quetion. What do you think, as a matter of public policy, about establishing set-asides for particular industries in the allocation of new spectrum?

Ms. DENNIS. For PCS?

Mr. SHOOSHAN. In any context.

Mr. HATFIELD. Let me go back. Since I was associated somewhat with the original set-aside, I think that part of the problem is that we delayed cellular so long that it seemed like that was one way to move things faster. I think that there was a special situation that led to that decision.

I think what concerns me more is the fact that the telephone company has been able to acquire the other side, in many instances, which I think has discouraged the potential for cellular to compete with the ordinary local loop. That's a long way of getting to the current situation with personal communications. I hold out some hope that it can be competitive with the local loop. Therefore, you can more comfortably get rid of the line of business restrictions and some of the things that are tied into that monopoly.

So I would hope that PCS could lead to some of that competition. That then leads you to the question, if we allow the Bell companies, for example, local exchange carriers, to have that spectrum, will they then be able to discourage additional competitors? I think that comes back to a whole bunch of things that we talked about this morning, like open network architecture and things like that to make sure that they can't leverage, if you will, their existing wire-line monopoly and dominate this new wireless technology as well. So we need some good protection there.

I probably stopped short of saying that we ought to have an outright ban, but we ought to be darn sure that there is protection so that they don't destroy what could be a potentially new competitive—

Ms. DENNIS. Do you really think it's going to be a quick decision, Dale?

Mr. HATFIELD. A quick decision?

Ms. DENNIS. Yes, of where that spectrum's going to come from? You used that as the underlying reason why there was a wire-line set-aside to get the service up and running in cellular.

Mr. HATFIELD. Yes, that was the original intent.

Ms. DENNIS. And you don't think that this is going to be a lengthy, drawn-out proceeding either?

Mr. HATFIELD. I think it will be.

Ms. DENNIS. And you don't think that—

Mr. HATFIELD. I think it could help, though. I think there is some chance here. I think that if we allow marketplace forces to work, where existing private microwave workers can be reimbursed for moving, we can facilitate movement into this 2-gigahertz band. Of course, that's the solution that I personally would favor, letting the marketplace work here. If it's a higher value to have PCS than private microwave, why should the federal government stand in the way of privately beneficial transactions? Let people make the transactions.

Mr. SHOOSHAN. There was a suggestion implicit in your comment about cellular that I just wanted to explore briefly. Do you see the problem in the development of cellular to be the fact that telephone companies have somehow leveraged their switched closed transmission network, so to speak, to the detriment of the development of cellular? You suggested that the telephone companies would somehow stifle the development of PCN. Have they stifled—

Mr. HATFIELD. That's clearly the history. the cellular industry fought desperately trying to get Type II interconnection. They've still had problems. Even Peter Huber, author of the "Huber Report," was rather critical of the line of business restrictions. He identified the difficulties that cellular had—and I was involved in some of that—in trying to get efficient forms of interconnection. As a matter of fact—

Mr. SHOOSHAN. There has also been a suggestion made that once the regulators said that the telephone company must give the same type of interconnection to the non-wireline provider as it did to the wireline provider, that problem was resolved, wasn't it?

Mr. HATFIELD. No, I don't think so. I think that if you talk to the non-TELCO providers today, you'll see that they still have concerns about interconnection and equality in the sense that saying that I will give you the same thing that I give myself is not adequate because I may want to do something different from what you do. In fact, I may want to compete with you. Therefore, it's not clear to me that the incentive is just to say that equal is enough. I think that you may have to go beyond that. I'm not going to facilitate your competing with my business if I can help it. So I don't think this is quite enough to ensure that we can get to a competitive local loop situation here.

Mr. SHOOSHAN. I'd like to make one last point before we leave set-asides. It seems to me—this is going back to Barry—that NAB is fast moving to, if it isn't there already, a policy of spectrum set-asides for the broad-

casting industry. The solution seems to be evolving from the HDTV deliberations of the Commission that we have a set-aside, in effect, of spectrum for each incumbent television station so that each can begin to simulcast in HDTV. Similarly, the digital audio radio entry strategy seems to be to give additional radio spectrum to each incumbent broadcaster so that each can adapt to digital audio technology. How is that set-aside defensible?

Mr. UMANSKY. Well, again, it seems to make an awful lot of sense if you try to expedite the introduction of a new technology. We saw the seeds laid in cellular, which of course is not a mass media issue. The FCC, in the AM radio area, as a matter of fact, has decided that the expanded band should be set aside for applicants operating on the existing band to achieve a public policy of reducing the interference on the existing band. With HDTV and DAB (digital audio broadcast) as well, the notion is that you have an in-place setup of locally responsive video and audio outlets providing what the Congress asked for, locally responsive service distributed equitably.

Why not allow these broadcasters to be the ones to get higher technology, to be able to improve their service to the public, and to obtain the spectrum necessary to do that? It makes an awful lot of sense to us, and that's something that we're trying to push at the FCC, both in HDTV and with digital audio broadcasting.

Ms. DENNIS. Although I remember people coming to the Commission saying that what that policy essentially did was shut out the likelihood of increasing the number of minorities in broadcasting and women, that's a policy decision that the Commission has to wrestle with.

Now I'm going to give each of you 1 minute to tell us what policy you think should either be changed or implemented on spectrum today.

Dale?

Mr. HATFIELD. Pass the Dingell bill.

Ms. DENNIS. All right. That's less than 1 minute.

Leonard?

Mr. KOLSKY. Can I use his 30 seconds? [Laughter.]

Mr. KOLSKY. I think that the present system has been maligned. I think it needs the increased flexibility that the Commission is now turning to. I don't shy away from auctions, I would just like somebody to tell me how they're going to work. Basically, what we need is the ability of the government to "fess up" to changing times, changing allocation needs, and be willing to correct it.

Ms. DENNIS. Morgan?

Mr. O'BRIEN. I also think that the existing system is pretty good. I think with more spectrum—and, I think, more spectrum is probably inevitable, politically—and a more flexible approach with the Commission in keeping an eye on how successful the marketplace has been in driving new technologies, really less is more in this area as far as regulation is concerned.

Ms. DENNIS. So you wouldn't change any policy currently or put a new one in?

Mr. O'BRIEN. I think that the Commission should stay the course. The more certainty there is out there, I think, the better it is for industry.

Ms. DENNIS. Do you think there is certainty with the current process?

Mr. O'BRIEN. There is some measure of certainty. [Laughter.]

Ms. DENNIS. Dick?

Mr. PARLOW. I think that there is a definite need in the United States to have a more forward-thinking spectrum management process. I think there is an absolute need to have what I would call strategic planning, sort of looking ahead to provide the baseline from which the United States can become more competitive in the world community.

I think, with regard to the distribution of the spectrum—that Leonard hit one of the points on the head. We need to consider the value of spectrum in auctions. I think there has to be flexibility in the allocation process. I think that it would tend to make the process more responsive to our needs, both nationally and internationally.

Ms. DENNIS. When you say flexibility, do you mean to allow flexibility by the user or—

Mr. PARLOW. By the user in terms of the allocation process because, I think, the process has been very difficult to work with. I think that we have to provide more flexibility if we're going to get the best bang for the buck out of the spectrum.

I also believe that if you look at how we use the spectrum, you'll see that there's certainly a need to have a more open and responsive process. Certainly NTIA is going to be going in that direction.

I think that there is a need for better information in terms of how we use the spectrum in terms of better data bases, because if we're talking about how it's being used, we have to have a better understanding of how it should be used and what the opportunities are. We have to have a better understanding of how it's being used.

Ms. DENNIS. How are you going to get the Department of Defense to tell you more openly what it's doing with its spectrum?

Mr. PARLOW. We're heading in that direction. I think that there are some things that can be brought out into the open and others that cannot.

Ms. DENNIS. When do you think you'll get there?

Mr. PARLOW. It will take time.

Ms. DENNIS. My lifetime? [Laughter.]

Mr. PARLOW. No, I hope not, unless next week you're going to get hit by a car.

Ms. DENNIS. Doctor Stanley, what would you do? If you were a Commissioner, what would you do?

Mr. STANLEY. I think that if there were a magic pill to take to make it better, it would be variations of what Dale has mentioned—certainly the Dingell bill suitably modified to take into account some economic mechanisms so that the public exploits the new resource. I think that either auctions or fees are alternative techniques.

But even doing this is still only a couple hundred megahertz. This is a hell of a way to run a railroad. Still, to force spectrum either out of the broadcasters or the federal government is a very awkward way to modernize and keep up with the rest of the world.

So it's just a pill that the Dingell bill is representing. It will make it better, and I certainly hope it passes, but it's really not the solution for the long-term natural development of the resource.

Ms. DENNIS. Do you have any solution for the long term?

Mr. STANLEY. Probably a better joint process between the FCC and NTIA. I think that, as Dick mentioned, some openness is certainly a step in the right direction. That alone would help very much, that it, to make information that certainly is available to the FCC available to the public. It would certainly make for better-informed decisions.

Ms. DENNIS. Okay.

Barry?

Mr. UMANSKY. Although we support the Dingell bill, I think that it's important that we not take away any of the spectrum used to make those Patriot missiles work, first off. [Laughter.]

Mr. UMANSKY. But as far as the mass media is concerned, we think that the government should take best advantage of the existing setup of over-the-air broadcast stations and make it national policy to allow this equitable distribution of over-the-air, free, universally available facilities to become upgraded with higher technology. We easily can do that, in my view. There is enough spectrum for this to be accomplished and for other techniques and technologies to be accommodated as well.

In the video area, we do not want to see the creation of a system of "haves" and "have nots." We do not want to see video removed from people who can't otherwise afford it or from those who are not being served by fiber, by cable. We want to see continued universality.

And one matter that we really haven't talked about as much today as we probably should have is that we would like to see much more effective technical standardization by the federal government and especially the imposition of realistic and really stringent interference standards. Interservice interference standards and intraservice interference standards have been woefully lacking in the past.

CAFE STANDARDS

Mr. JOHNSTON. Mr. President, last week, the Office of Technology Assessment [OTA] released a study that is certain to influence the upcoming debate in Congress over new CAFE standards. The study is entitled "Improving Automobile Fuel Economy—New Standards, New Approaches." I requested this study back in 1989. The study covers many issues related to CAFE standards including fuel economy potential, the design of new standards, and safety. The study is a balanced objective and insightful analysis of a very controversial issue.

In the study, OTA made projections of what CAFE levels are feasible under several scenarios. The "product plan" scenario assumed no new regulations but rising oil prices. OTA's "maximum technology" scenario projected the absolute maximum level that technology could achieve regardless of cost and regardless of early retirement of existing models. The "regulatory pressure" scenario represented a middle ground: It sought major improvements in fuel economy while maintaining the current size and performance of automobiles, and allowing for the normal model redesign schedule. Under the regulatory pressure scenario, OTA projected that CAFE levels could reach 30 mpg in 1995, 35.5 mpg in 2001, and 37.1 mpg in 2005.

The criteria and CAFE numbers in OTA's regulatory pressure scenario are very similar to those in Amendment 752, the CAFE proposal I offered along with Senators CONRAD and AKAKA as an amendment to the National Energy Security Act of 1991, S. 1220. The CAFE

levels required by this amendment are 30.2 mpg in 1996, 34 mpg in 2001, and 37 mpg in 2006.

I am not surprised that our numbers are very close to those in OTA's regulatory pressure scenario. We listened to, and learned from, OTA when they testified before the Senate Energy and Natural Resources Committee. Our CAFE proposal reflects that fact.

The American Automobile Association, representing more than 32 million members, has endorsed Amendment 752 as a responsible middle ground between the rulemaking called for in S. 1220 and the extreme and unrealistic CAFE goals in S. 279, the only competing CAFE proposal before the Senate. I would like to submit a letter for the record that AAA sent to me stating its position.

CAFE standards are a critical component of a national energy policy. New CAFE standards should stretch Detroit to the technological limit of fuel economy, consistent with the preservation of American jobs, maintaining American market share, and the profitable survival of the automobile companies.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN AUTOMOBILE ASSOCIATION, GOVERNMENT AFFAIRS,
Washington, DC,

Hon. BENNETT J. JOHNSTON,
U.S. Senate, HSOB, Washington, DC.

DEAR SENATOR JOHNSTON: The American Automobile Association, serving more than 32 million members, is pleased to support your amendment to raise the Corporate Average Fuel Economy (CAFE) standards beyond those offered in S. 1220, the National Energy Security Act of 1991, as reported by the Senate Energy & Natural Resources Committee.

Your amendment, setting new CAFE standards of 30.2 miles per gallon in 1996, 34.0 mpg in 2001, and 37.0 in 2006, represents a responsible middle ground between the Senate Energy & Natural Resources Committee's proposal and an amendment expected to be offered by Senator Richard Bryan to raise CAFE to 40 mpg by 2001.

AAA supports your amendment for the following reasons:

The OTA has determined that given enough lead time fuel economy increases can be achieved by the nation's auto manufacturers without a major shift toward smaller cars and without jeopardizing safety;

If fulfills expectations of the American public. A recent nationwide poll conducted for AAA shows overwhelming public support for a major increase in CAFE;

It could save more than 1 million barrels of oil per day when fully phased in after 2010 without a major change in personal lifestyles; and

There are offsetting CAFE credits in S. 1220 for those vehicle makers that produce alternative-fuel vehicles.

Thus, in view of continuing uncertainties in fuel price and supply as a consequence of political instability in various parts of the world, AAA believes the responsible course of action is for the Senate to enact the Johnston CAFE amendment.

Enclosed is a copy of AAA's letter to every Senator.

Sincerely,

JOHN ARCHER,
Managing Director.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to speak as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADVICE AND CONSENT

Mr. LEAHY. Mr. President, we have had a number of things said on the floor of the Senate about advice-and-consent procedures in the past few days. The President of the United States has just spoken on this issue. Prior to the President's speech, which was fairly well heralded by the White House, and during discussions with others, I have been thinking on the subject myself. And I have a few words I would like to say.

I am not suggesting that there should not be debate on this issue, but I think if we are going to have the debate in the context of the Thomas nomination, we cannot approach it simply as political scientists would in some kind of a vacuum. I think we have to put the debate in the context of what happened.

Ten days ago, the administration's troops led a seek-and-destroy mission against Anita Hill. Now the President is talking about the need to change the advice-and-consent process. But if the administration wants to tamper with advice and consent, it really will have to tamper with the Constitution. However eager the White House may be to score additional political points, somebody at the other end of Pennsylvania Avenue better take out a history book. Advice and consent is not some kind of a plot of the Democrats in the Senate. It is the teaching of the Founding Fathers, and advice and consent has served this country very, very well for 200 years in both Democratic and Republican administrations and in both Democratic and Republican Senates.

Mr. President, if you asked me, I think the only thing that really needs reform is the administration's cynical approach to the Supreme Court.

When the President makes the political decision to tip the balance of the Court and pack it with people having a rightwing ideology, then the Senate has the right to do the people's business and reject those nominees.

If the White House sees the Supreme Court as a tool for political advantage rather than as the guardian of our fundamental rights, if it views the Court as a plank in the Republican platform rather than as the forum of last resort of all Americans—Democrat, Republican, Independent, all Americans—if it tries to turn the Senate advice-and-consent power into a rubber stamp, if it commits itself to creating a partisan, monolithic Court rather than a Court that reflects the wise balance of all the American people, then it cheapens, devalues and diminishes a uniquely American institution which should stand as a pillar of our democracy.

We talk as though this process is something that just came about in the last few days. The process we are talking about is advice and consent. It has been a mainstay of our country and our Constitution and our democracy for 200 years. It is not something that was invented just for Clarence Thomas. It is not something that was just invented for the next nominee.

Those who want to change the process of advice and consent should first read the Constitution and should first read a history book because, listening to some at both ends of Pennsylvania Avenue, I do not think they have read either the Constitution or any book on history. Let us not decide because of a political poll of a weekend or of a day that suddenly we change our Constitution.

On July 1, the President nominated Clarence Thomas to fill Thurgood Marshall's seat on the Court, and he told the Nation he chose Judge Thomas because the judge was "The best person for the job." Not even Judge Thomas' most ardent supporters could really say that with a straight face. The political calculation was transparent. Here was a nominee with bona fide rightwing credentials whose race would make him difficult to oppose.

I would suggest that the next time the President is called upon to nominate a Justice for the High Court, let him make a choice for the ages, not for the political moment. Let him select a Justice in the honored tradition of Harlan, Frankfurter, Black, or Brennan. Let him take the "advice" in advice and consent seriously. If the President were willing to consult not just a narrow, rightwing constituency, but the relevant leadership in both parties, then the acrimony and bloodletting we saw this month would not be repeated.

Nobody suspects, as our forefathers of this country once suggested, that the Senate would make the choice. The President has the time-honored and constitutional duty to make the choice. I do not envy him in that duty. But we also have a constitutional re-

sponsibility of advice and consent and we can reject that choice. That is not something new. That is not something of the past month. That has been the case for 200 years of constitutional history in our country.

Because if you do not take advice and consent seriously and do not think of the history of this Nation, then you have what we saw last month.

THE SEPTEMBER HEARINGS

On September 10, Clarence Thomas came before the Judiciary Committee packaged, coached, and scripted. The idea was to avoid candid debate at all costs, to dodge the questions people in this country care about, to hunker down and get through by revealing as little as possible.

And the handlers hovered nearby. They were the ones calling the shots. You would almost think they were the ones to be confirmed. Who can ever forget that famous "time-out" photo that we saw in the Washington Post? The spin doctors did their work at every break in the action. The whole business took on the air of a New Hampshire primary rather than a lifetime appointment—a lifetime appointment—of lasting consequence for all Americans. Meanwhile, with rare exceptions, the Republicans on the Judiciary Committee gave the nominee a complete pass, spending committee time on pointless speeches rather than asking real questions designed to evoke real answers. In fact, it was apparent that the speeches were there to avoid any possibility of questions and answers.

THE INQUISITION OF PROFESSOR HILL

When Anita Hill testified, Judge Thomas' handlers and strategists went to war. His supporters in the White House and the Senate made no pretense of conducting an evenhanded inquiry into the truth of Anita Hill's allegations. Instead, they launched a full-scale assault to discredit and destroy her for the "crime" of speaking out.

Judge Thomas' supporters changed their mud-slinging lines every 15 minutes. They accused Professor Hill of being a spurned woman out for vengeance; a bitter woman passed over for promotion; a tool of special interests, whose story was fabricated for her at the 11th hour. But her corroborating witnesses—four of the most credible witnesses we saw in this whole sordid mess—demolished the claim of last-minute fabrication, and Professor Hill's own poise and confidence fatally undermined the charge that she was lying.

Undaunted, Judge Thomas' supporters simply switched their smears and innuendo: They said she was crazy; she fantasized the whole thing; she was self-deluded; she belonged in an asylum. They branded her with the "P" words—perjurer, pervert, and proclivities. We learned that "stuff" on Professor Hill was falling out of Republican pockets.

This was high-technology character assassination directed by the White House and aimed at Anita Hill. And none of these irresponsible claims or very dark or evil code words was backed up by a shred of evidence.

As painful as the attacks on Professor Hill were, the White House stooped to an even uglier—but sadly familiar—game. As it has done before, from Willie Horton to the civil rights bill, the administration exploited the inflammatory issue of race for political ends, charging that Judge Thomas was being lynched. But this was no lynching—this was an investigation of charges by an African-American woman against an African-American man. Race played no role in the Senate's decision to investigate, and it was unworthy for those who supported Judge Thomas to claim that it did. It was even more unworthy for Judge Thomas to endorse such claims.

I am not here to refight the Thomas nomination battle. I do not question that Senators of good will and conscience voted on both sides of this issue. Many, many Senators came to the conclusion that they did, either to vote for or against him, based on the record and based on the substance of the record.

What I am concerned about is those who wanted to go way beyond advice and consent, who wanted to turn it into a political charade, and who wanted to smear Anita Hill and others in the process.

I am afraid that those who sought a short-term political gain were willing to ignore the Constitution and ignore history and ignore their responsibility to this body, to the U.S. Senate, to the one place that should be the conscience of the Nation. And I am afraid that those who wanted to ignore all that will also undermine the extraordinarily important advice-and-consent procedure that this country has cherished and held and utilized for 200 years to the benefit of our democracy, to the benefit of our country, to the benefit of all people, not those who happen to fit a political ideology of the moment. Because the advice-and-consent process is fundamentally sound. It was fundamentally sound a year ago. It is fundamentally sound today.

And it is just as enormously important today as it was when the Constitution was written. It brings together our three branches of Government. It demonstrates the wisdom of our separated powers in which each branch of Government checks the power of the other. It makes sure that no branch of Government—the legislative branch, the executive branch, or the judiciary—could somehow gain preeminence in our country.

It is the reason that the United States of America is the democracy that the rest of the world looks to for guidance. It is the reason that our country became the most powerful Nation on Earth, with power that no one in history ever believed possible—the power to destroy the whole world in a matter of hours, the power to dominate the world if we wanted.

Throughout all of that, we have never succumbed to the obvious power of one person or one group taking over as a dictatorship in this country. And why? Because with the wisdom of our Founding Fathers, we put together a Constitution with a separation of powers.

Now, when you see people in Eastern Europe throw off the shackles of communism and dictatorship, where is the first place they come? The first place they come is to the United States of America. And they say to us: How did you do it; how did you have so much power and not have a dictatorship; how did you have so much power and not try to take over the rest of the world; how did you have so much power and protect the freedoms of every single person no matter what their status is, no matter whether they are poor or rich or a minority, no matter what part of the country they live in?

We protect the power of every single individual, the rights of every single individual. How did we do it? How did we do it when so many other countries ignored the rights of each individual? We did it because we have a separation of powers.

For 200 years we have protected that separation of powers. Presidents of both parties have. Congresses of all parties have. Judges have. Throughout all of that time, from the founding of this country, the War of 1812, the Civil War, the World Wars, through Presidential assassinations, through resignations, through changes of political leadership, throughout all of that the men and women of the U.S. Senate have been willing to stand up and say: We are not going to take a political poll moment to find what we do. We in the Senate have a responsibility, a unique responsibility—unique, really, to any democracy in the world—in the advice and consent process, because we act as a counterbalance.

We are supposed to speak for all Americans. It is an enormous responsibility. We shirk our responsibility—and I would argue shirk our oath of office—we shirk our responsibility to the Constitution of the United States when we allow passing and momentary political passion or momentary political polls to cause us to step back from our responsibilities under advice and consent.

We are Americans; we are U.S. Senators; we have a responsibility to all the country. No member owns his or her seat in this body. There are only 100 of us for the country. Let us remember what that responsibility is. Do not pick up a poll in the morning and say: Ah, now I know how to vote; now I know what is in my heart and soul.

No. Pick up the Constitution every morning. Pick up the Constitution and know we are here to protect it and we have a responsibility to it. Because every one of us will be gone someday from this body. Every 6 years we are up for reelection. Someday we will go, by choice—either of ourselves or of the enlightened electorate. But we will go.

But the Constitution will remain. Each one of us ought to ask ourselves when that day comes that we do leave, can we go back home to our own States and say: I may not have been the best there ever was, but I know one thing. I tried to protect the Constitution. I tried to protect the Constitution so the next Senator who comes in, the 100 who will be there after me, will also know that I stood up to protect the Constitution, and they will do the same.

That is the responsibility we have to the people who, 200 years ago, founded this country. That is the only way we can justify ourselves to the other human beings on this planet, and justify the enormous power and wealth and blessings that the United States of America has. The only way we can justify it is to say we will uphold these pillars of democracy on which our country is founded and that we will uphold the responsibilities we have. We will tell the Almighty that: You really have blessed us and given us benefits nobody else has. But we will share that responsibly.

The Framers knew that the Supreme Court was central to the protection of individuals against the excesses of the majority. They understood that, to protect the independence of the Court, neither the executive nor the legislature—nor the Senate— should have the power to cast the Court in its own image. They therefore made the Senate an equal partner in appointments to the Supreme Court.

If the White House were willing to seek the Senate's advice rather than simply demanding its consent; if nominees would come before the Senate prepared to engage in an honest and forthright discussion of the Constitution and the Bill of Rights; if Senators would ask genuine questions instead of indulging in political speeches—and would treat all witnesses with basic fairness and common decency—the advice and consent process would work fine. Before trying to "fix something that isn't broke," let this body and the White House, working together as the Constitution contemplated, make the system work right.

I have had many times in the Senate when I have disagreed with the President. I have had many times when I have agreed with the President. I feel, as the President of this country, he deserves a great deal of respect, and he deserves a great deal of discretion. In so many things, we give him that. In so many things, Republicans and Democrats alike in this body have joined with President Bush for the good of the country.

But let us not assume that because we follow our constitutional duty—not our constitutional right, our constitutional duty—of advice and consent, somehow this is disloyal to America, disloyal to the President, disloyal to this body. It is what every one of us has sworn to do. Each one of us, when we take our oath of office when we begin our term, we stand in this Chamber, we raise our hand and we swear before Almighty God we will uphold the Constitution of this land.

Upholding it does not mean just reading it. Upholding it means defending it with every fiber of our body. Because if we do not, we do not deserve to be here—none of us do.

We have no greater duty than to preserve our democracy. And that means to preserve the checks and balances of our democracy. And it means, also, to preserve the institution not just of the Senate, not just of the Presidency, but—across the street—of the U.S. Supreme Court; and to be able to say, as Senators, we have done everything possible to have a Court that is there for every man, woman, and child in this country, no matter where they fall on the political spectrum. No matter who they are, rich, poor, connected or not. In America every American can say: If my rights are trampled, I will go to the Supreme Court, if necessary. And it is a Court not already predisposed against me. It is a Court that welcomes me.

So, when we talk about changing the process, let us remember that means changing the Constitution. It is a Constitution that has served us all very well for 200 years. If we have a sense of history and a love of the Constitution, we will be very, very careful when we start walking down that road to change.

Instead, every Senator, every one of us, should ask himself or herself what have we done and what are we doing to uphold the Constitution—not to uphold politics; not to uphold a political poll; not to uphold the political fortunes of one side or the other. But first and foremost, what are we doing every day to uphold the Constitution?

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1991

Mr. MITCHELL. Mr. President, I have just come from a meeting with the distinguished Republican leader, Senator DANFORTH, and Senator KENNEDY, regarding the pending civil rights bill.

Senator DOLE and I were informed that negotiations are continuing in an effort to reach agreement on some of the more important and controversial aspects of that bill. As a result of the information provided at the meeting, I have concluded, following consultation with Senator DOLE, that it would be best to permit a brief period of time this afternoon for such discussions to continue.

Under the previous order, at 2:30 p.m., the Senate will turn to the Federal Facilities Compliance Act and measures with respect thereto. That will continue until 3:30 p.m., at which time there will be three rollcall votes.

So as to permit those discussions to continue unimpeded, and not to require the presence of the bill's managers on the floor between now and approximately 4:30 p.m., I ask unanimous consent that the time between now and 2:30 p.m. be for purposes of debate only on the civil rights bill.

The PRESIDING OFFICER. Is there objection?

The Republican leader.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, the majority leader has accurately stated the situation. There are discussions going on, and there is some optimism. There has been optimism before, so I will not want to say it will happen. At least, there is an effort being made with representatives of the President and others, who are in discussion as we speak, trying to resolve some of the differences. I hope they can be resolved, but I think in a couple hours we may know.

So I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I anticipate that those involved will be advising us sometimes in the next several hours as to what the status of the discussion is that time. I expect to be in a position to make some announcement on how we intend to proceed, either prior to or just following the three votes that are now scheduled to commence at 3:30 p.m.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. MITCHELL. Mr. President, in this period during which the civil rights matter is before us for debate only, I want to take the opportunity to discuss a subject, with which I have been deeply involved and about which I have been very much concerned for a

long period of time, to encourage my colleagues and others in policymaking positions to consider, and that is the need for comprehensive reform of our health care system.

Prior to becoming majority leader, I served as chairman of the Senate Health Subcommittee, during which time I conducted a series of hearings regarding the status of the health care system in our society. It was my conclusion then—and this was in a period of 1987 and 1988—that major reform was needed in the American health care system, and my conviction in that regard has been strengthened by what I have learned since then.

I believe, Mr. President, and Members of the Senate, that, at its best, the American health care system delivers the highest quality of health care in the world. The problem is that the system does not operate at its best for all Americans. Right now, there are an estimated 37 million Americans who do not have health care insurance, and that number is rising by an estimated 1 million people a year.

Contrary to what is a widespread belief in our country, most of those people are white and most of them are working or the dependents of persons who are working. So a very large and growing proportion of Americans do not have ready access to health care, because, with the tremendous and continuing increase in health care costs, lack of health care insurance effectively means lack of access to good health care.

This is a most unfortunate result. I believe that in our democracy it ought to be a fundamental right of every citizen to have access to good and affordable health care—a fundamental right of citizenship in a democracy; not a privilege, not something to be limited to a few, not something to be rationed in accordance with wealth or any other measure of status, but rather something that every single American citizen—man, woman, and child—should have as a basic right.

What do we do about it? Well, first, I believe we must recognize that the problem in the American health care system is not that we need to spend more money. In fact, the problem is just the opposite. We need to spend less money. We are already spending too much money on health care.

The most recent estimate I have seen is that in this year Americans will spend an estimated $670 billion on health care—$670 billion. More than 12 percent of our gross national product. Both figures, the absolute dollars and the percentage of gross national product, by far the highest in the world. No other country spends, either in absolute dollars or in percentage of their gross national product, anything near the amount that is spent in this society.

For that, as I said, we get the best care when the system operates at its best and when care is available and accessible and affordable to Americans.

Therefore, Mr. President, it is my conclusion that our system needs comprehensive reform. This is a problem that affects every American family. The American family which is so well off that it need not fear the devastating financial consequences of an unexpected major illness or injury is very, very rare indeed. Every family either confronts the problem immediately now or is filled with anxiety about what might happen if the problem strikes at them.

Earlier this year I was in Fargo, ND, where I visited a superb institution, a regional children's hospital, one of the finest medical facilities I have been in, and I have been in many, many of them. There I met and talked with the dedicated staff of health care professionals who asked me to tour the facility and to talk with some of the patients and their families.

I met a teenage boy and his parents. His parents operated a small farm near Fargo. As we all know, farming is a seasonal and unpredictable business, and income is neither assured nor regular.

In the previous winter, this young couple, faced with a period in which their income was down, having to cut expenses to the bone, decided to temporarily discontinue their health insurance policy. They expected to resume paying the premiums on the health insurance policy in the spring when they expected income to resume from their farming operations.

Tragically, just a short time before they were going to resume paying the premiums and reinstate their health insurance policy their teenage son was involved in a serious automobile accident. As a consequence the young boy is now seriously injured and possibly permanently paralyzed, and the family faces already-incurred medical bills in the tens of thousands of dollars that far exceed any possibility of the family ever being able to meet these payments.

I also met in the hospital a young, 2½-year-old girl and her young parents. This young girl had been born with a serious infirmity and had never spent a single moment of her life outside of the hospital. The entire 2½ years of her life had been spent inside that hospital incurring medical expense at a rate in excess of $1,500 a day. Her parents also were a young couple who operated a farm in the area. And they now confront bills already in the hundreds of thousands of dollars and which may go far beyond that. Again, completely beyond their income, completely beyond any prospect of their paying all or even a major portion of this bill.

A few weeks after that in my office I met and talked with a young man in his midtwenties who works in a factory, a paper mill in Maine. He told me his story.

He and his wife had a child. The child was born with a serious infirmity, and very extensive and very expensive medical procedures were employed to try to save the child's life. After a period of several months the child died. The mother and father got the bill. It was $350,000. A young man about 25-years-old, who works in a factory. He told me he was lucky because he has a good job with health benefits which will pay $200,000 of that bill. He being more fortunate than most in our society.

Yet even with that fortune he and his wife are confronted with a bill of $150,000. They have worked out an arrangement with the health care providers that they will pay some portion of their income for the rest of their lives. They will never be able to repay the entire bill with interest. But they feel that their infant child was given the best care; they have a moral obligation to try to repay it and they are going to do the best they can. But for the rest of their lives, already burdened by the loss of their child, they will now be burdened by a bill that they can never pay.

If these were isolated cases, if there were only these three, or three other such cases in the country, we in the Senate could all fee enormous sympathy with the parents and the children involved but not feel for national policy on the basis of just a few isolated instances. But every Member of the Senate knows these are not isolated instances. These are tragically typical; these are, tragically, a few of the many examples of which we have all heard—people we have all met, people we have all talked to in our town meetings, in our meetings with our constituents, even in some cases within our own families and friends.

This is not an isolated problem. That is not a problem that affects only a few Americans. This is not a problem that affects Americans only in one region of the country. This is not a problem that affects Americans of only one race. This is not a problem that affects Americans in urban or rural areas. This is a problem that affects Americans everywhere and virtually every American family.

The situation simply cries out for leadership, and for effort, and for meaningful and substantive reform of the current system.

Earlier this year I joined with some Senators in introducing comprehensive legislation. It is much too complicated and lengthy to describe in full detail here. I do intend to make a series of statements on the Senate floor on the subject because I think the matter has not received the attention of the Senate, which I believe it deserves. But the legislation has two principal objectives which are, on their face, conflicting—but both of which require action.

On the one hand the legislation provides universal health care insurance.

Every American should be insured against the costs of health care—every American.

Mr. WELLSTONE assumed the Chair.

Mr. MITCHELL. Mr. President, there should not be any exceptions. There should not be anyone who confronts the possibility of not being able to deal with something—either injury, illness, accident, some other physical ailment—to a member of their family because they do not have health insurance. There is not anybody who ought to be denied the good care that every citizen ought to have, and the essential first step in that must be health insurance.

And so the first and fundamental premise of our bill is to provide universal health insurance for all Americans. That is absolutely essential, in my judgment. It is the minimum first step, the threshold, which any legislation must provide to be described as meaningful.

The other problem which is major is, How do we control costs? At first glance, one might say if you increase coverage, if you provide more persons with ready access to care, you inevitably drive up costs and, in fact, if you do have any cost-containment provisions, that is exactly what will happen. We clearly are going to exceed $700 billion next year. We are moving to 13 percent of our gross national product in health care costs.

So if we simply say we are going to expand health insurance, we are going to give everybody access to care and do nothing else, then we guarantee that costs will rise even faster than they have been rising which, in the past several years, has been more than three times the rate of inflation, generally.

So our measure takes as the second, or really a first and coequal principle, that we must take dramatic action to control costs at the national level. We must bring down the amount of money that our society is spending on health care and we need not sacrifice quality. We need not sacrifice comprehensiveness. We can do so at less cost.

The legislation which we have introduced will, according to one estimate, reduce overall costs by an estimated $80 billion in the first 5 years in which the bill is in operation—$80 billion. That is not enough. And we are now receiving comments on our bill—a lot of criticism and a lot of it constructive criticism, suggestions which we are taking seriously and considering as we hope this legislation moves through the legislative process in an effort to come up with what we think will be the best approach.

The legislation seeks to control costs in a variety of ways. I will just touch briefly on a couple of them.

I want to yield momentarily to my friend from Arkansas who has been a leader in this effort and who has been involved in health care and costs, particularly in the area of prescription drugs, which he may want to address. But the principal area in which we believe reform is necessary in terms of controlling costs is, first, to create authority for States to impose dramatic cost-control requirements.

Our legislation calls for administration of the program at the State level because the health care problems of rural Maine are not the same as the heath care problems of inner-city Los Angeles, and the problems of Arkansas are not the same as New York. The best place to do this is at the State level, and our legislation will authorize the States, will create authority for States to undertake a wide range of cost control measures, including some which have been tried at the State level and including others that have not yet been included at the State level.

For example, we proposed to permit States to create legal entities within those States—for want of a better term, in the legislation it is called a State consortium—to negotiate with providers, to control the amount by which health care costs increase each year.

We also would require comprehensive reform of the small insurance company share of the health care market. One of the problems we have in our society now is that we have thousands of different mechanisms by which payment is made—many different companies operating, each with its own claims department, each with its own claims process, each with its own claims form. When you add on to that the forms under Medicare and Medicaid, our health care community is being drowned in a deluge of paperwork.

There is not any reason why we could not have and should not have within each State one form—one form—and one payment mechanism so as to eliminate all of the duplication, eliminate all of the additional paperwork, and eliminate the administrative cost of a large number of small companies, each with its own claims and other administering staff duplicating that of others. We believe this is absolutely essential to controlling costs. When we are talking about $670 billion a year, a 2 percent saving is a modest estimate of what can be saved by the elimination of duplication in this regard.

So I am very deeply committed to trying to get this reform completed in a way that will enable us to bring costs under control.

As I said, Mr. President, there are a number of other measures in our bill that seek to attain cost containment. I think it is essential both in terms of the substantive approach we are taking, that is, I do not think we can expand coverage and not try to contain cost, but for the political purposes of trying to get a bill passed in the first place, the reality is we could not pass a bill in the Senate and do not think a bill could pass in the House if it had one or the other of these components without both. The conflicting economic interests, the diverse social interests, and a lot of others are such that we are going to have to have, in my judgment, both full insurance coverage and meaningful and very effective cost containment in order to be in a position to get legislation enacted.

Mr. President, as I said, this is a subject which has deeply concerned me for many years with respect for which I have been very deeply involved. I introduced legislation a short time ago. We will be holding hearing around the country in the near future to find out more about the problem and to add to public knowledge and, I hope, interest in the subject. I intend to make a series of statements in the Senate on this subject because of the importance which I attach to it in terms of our agenda.

The agenda of the Senate ought to be the agenda of the American family. The problem now in our country is that many Americans perceive that we are not addressing the issues which are immediate concern to them and their families, and that we are addressing issues that are peripheral to or even unrelated to their daily lives and their daily needs.

If we are to regain the confidence and trust of the American people, if we are to truly merit the title of representatives in a representative democracy, then it seems to me we must begin by addressing those concerns that are central to their lives.

I have traveled all over this country and I have traveled all over my State, and I know everywhere I go the subject of health care is foremost in the minds of our citizens. People bring it up all the time, specific examples. Most Senators, I know, hold town meetings. I know based on my own experience, I would guess that there is hardly a Senator who has not been confronted at a town meeting by some person or family getting up and saying, "Senator, this is what happened to me and my family and my child. Here is the bill I have received. It is ten times what I make in a year, 50 times what I have in my savings. Impossible for me to pay. What are you going to do about it?"

I believe it is time we did something about it, and I hope, through this series of statements which I have begun today and which I hope to make on a regular basis in the coming months, that I can somehow at least bring to the attention of the Senate, focus our attention, the need for action on health care legislation and bring about action in this Congress.

It is my intention, which I have stated publicly, and I repeat here today, that we in the Senate will vote on health care legislation in this Congress. It is not going to happen in this

year. It has not progressed to the point through the legislative process that will permit us to act in this first session of this Congress. But I fully expect that we will reach that point next year. I am determined that we will do so.

There are many different views sincerely held and many strong differences of opinion. But as I said when we introduced our bill, we did not offer it as the perfect solution. We did not offer it as the only solution. We did not offer it as necessarily the best solution. We offered it as a serious, thoughtful effort, the product of nearly 2 years of work, to try to bring about a focus on the debate on this subject as a first step toward getting legislative action.

To those who disagree with any aspect of our bill, we invite their constructive comments. We invite their alternative suggestions. We invite their criticism.

But it is not enough to simply say our approach is wrong and offer nothing else. That is not leadership, and we are elected to be leaders in our society. To those who do not like this approach, to those who think this approach fails in one or another way, I invite and encourage their participation. I especially invite and ask them to offer their constructive alternatives. Out of that debate I think we can get a good product and a good result.

Mr. President, I want to yield now to the Senator from Arkansas and commend him for his action and involvement in this area. I know he has a particular interest in the area of prescription drugs that he may wish to address.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the majority leader for yielding to me. I applaud the majority leader for his statement on health care and some of the aspects that his legislation is going to address.

Mr. President, it has been my privilege the last several years to have as my seat mate on the Senate Finance Committee the very able and, I must say, very committed Senator from Maine, Senator MITCHELL. On many occasions I have seen him take this issue of health care and attempt, in his very commanding way, to at least focus the attention of this country and his colleagues on this issue, and to also attempt to get the attention and the support and the cooperation of this administration in dealing with one of the most critical issues of our times.

One of those issues, Mr. President, one of those great concerns that I see in the overall arena of health care to which we must address ourselves, is one that I have addressed on this floor on many occasions, also in the Senate Special Committee on Aging on several occasions, and recently before the Senate Education and Labor Committee and, of course, on several occasions in the Senate Finance Committee. That issue, Mr. President, is the issue of prescription drugs.

We have had a great deal of discussion in our country in recent years about hospital costs and a way to contain the costs of hospitalization. We have gone to the American Medical Association. We have gone to the doctors and have said you have to contribute to cost containment, and if you are not going to do it voluntarily, we are going to do it by statute; we are going to set the prices that you can charge.

So we have seen hospitals and we have seen doctors attempt through voluntary and statutory activities to limit in some way the tremendous cost increases that we have in medical care today.

Mr. President, there is one aspect of the health care delivery system that has not been cooperative, that in no way has attempted to come forward and say we are going to do our part; we are going to help control costs of prescription drugs in America.

To the contrary, Mr. President, the Pharmaceutical Manufacturers Association and their members that manufacture the prescription drugs we use today for our basic life support, those particular companies today, most of them—not all but most—are gouging the American public at an unprecedented rate.

All we have to do, Mr. President, is look back 10 years to see a general inflation rate of 58 percent. That has been over the last decade. But prescription drug costs, Mr. President, have not risen at 58 percent. They have risen at 152 percent—a 152-percent increase in the cost of prescription drugs in 10 years.

What we see is that in 1980, just 11 short years ago, a bottle of capsules that cost $20, today is, on the average, $58 a bottle. What we see also is a response by the pharmaceutical manufacturers. They come to the Congress year after year and they say, well, we must be able to generate huge profits so that we can plow these profits back into research and development of new drugs.

What the pharmaceutical manufacturers do not tell us, Mr. President—and the distinguished majority leader knows this—is that for all those dollars which they plow into research to find the cure for cancer, Alzheimer's, Parkinson's, and the dreaded diseases of our time, they are getting a tax writeoff. This is a tax writeoff for the pharmaceutical manufacturers.

What they are also not telling us, Mr. President, is that once a drug is sent to the market, they have a 17-year period of patent protection; they are protected from any other manufacturer coming in to compete against them.

We see also, Mr. President, that once they secure a patent from the U.S. Patent Office, that same manufacturer, 9 times out of 10, will move to Puerto Rico their plant, their operations, their manufacturing facilities, and they will manufacture these drugs there to become eligible for billions of dollars in tax credits from the section 936 program of the Internal Revenue Service Code. Mr. President, we are seeing today that pharmaceutical manufacturers are getting a $70,000 tax credit for each employer—whose salaries average approximately $26,000 a year—they hire in Puerto Rico. The manufacturers put them to work so that the industry can have a free ride in Puerto Rico in manufacturing these drugs.

Mr. President, I could go on and talk about what the drug manufacturers are doing to the American public, but I can best summarize it in one human experience. I received a letter just last week from a constituent. This constituent lives on a Social Security check of $936 a month. But this individual who sent me what his income is also sent me all of the bills for a month's period for prescription drugs—over $500 a month out of his $900 a month income on Social Security is being used to pay the costs of the prescription drugs this individual needs just to stay alive.

I think we must address the issue of the fast escalating costs of prescription drugs.

Mr. President, I am very hopeful I can join with the majority leader in his legislation. I hope we will be joined by this administration and the President of the United States to address not only those larger concerns expressed by the majority leader but also the issue of prescription drug costs in our country.

Mr. President, I think the time has expired.

FEDERAL FACILITIES COMPLIANCE ACT

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 p.m. having arrived, the Senate will now resume consideration of S. 596, which the clerk will report.

The bill clerk read as follows:

A bill (S. 596) to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from California [Mr. SEYMOUR], is recognized to offer an amendment.

AMENDMENT NO. 1271

(Purpose: To determine the source of the unauthorized release of confidential information compiled by the FBI with respect to Prof. Anita Hill and Judge Clarence Thomas)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mr. SEYMOUR], for himself, Mr. DOMENICI, Mr. MURKOWSKI, Mr. GRAMM, Mr. COATS, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. BOND, Mr. BURNS, Mr. CRAIG, Mr. GRASSLEY, Mr. HATCH, Mr. KASTEN, Mr. MACK, Mr. MCCONNELL, Mr. NICKLES, Mr. JEFFORDS, Mr. SMITH, Mr. SYMMS, Mr. HATFIELD, AND Mr. LUGAR proposes an amendment numbered 1271.

The Federal Bureau of Investigation is hereby requested and authorized to obtain such subpoenas as are necessary to secure the attendance of such witnesses and the production of such correspondence, books, papers, documents, and other sources of information, to take such sworn testimony and to make such expenditures out of any funds appropriated and not otherwise obligated to make an investigation into the matter of releasing of any confidential or secretive information transmitted to the Senate committee on the Judiciary regarding Professor Anita Hill of the University of Oklahoma or Judge Clarence Thomas and to report to the Congress the results of this investigation not later than 30 days after the date of enactment of this Act.

RESOLUTION RELATIVE TO THE APPOINTMENT OF SPECIAL COUNSEL—SENATE RESOLUTION 202

The PRESIDING OFFICER. Under the previous order, the Senate majority leader is recognized.

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 202) to appoint a special independent counsel to investigate, utilizing the Federal Bureau of Investigation, the General Accounting Office, and any other Government department or agency as may be appropriate, recent unauthorized disclosures of nonpublic confidential information.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Under the previous order, there is 1 hour of debate to be divided equally between the majority leader and the Senator from California.

Mr. SEYMOUR. Mr. President, have the yeas and nays been ordered on my amendment?

The PRESIDING OFFICER. They have not been so ordered.

Mr. SEYMOUR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SEYMOUR. Thank you, Mr. President. I yield myself 3 minutes.

Mr. MITCHELL. Mr. President, will the Senator yield for me to get the yeas and nays on my resolution?

Mr. President, I ask for the yeas and nays on my resolution.

Mr. President. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SEYMOUR. Mr. President, I yield myself 3 minutes of my time.

Mr. President, 8 days ago, when I offered my amendment calling for an FBI investigation of the Senate Judiciary Committee leaks, I did so with three goals in mind: First, to seek the most thorough, straightforward, independent, and credible investigation possible. Second, to urge, push, and press, if necessary, this body to initiate an immediate investigation of these unconscionable acts. Third, to begin the process of restoring the public's faith in this institution.

The President, I am pleased and proud that we have apparently achieved two of those three goals. Namely, goal No. 2, that we are about to initiate an investigation, and, to the degree this investigation is successful, we will have begun to achieve goal No. 3; that is, to restore the public's faith and trust in this institution.

However, Mr. President, I am concerned with goal No. 1; that is, to seek the most thorough, straightforward, independent, and credible investigation possible. The alternative to my amendment, put forth by the majority leader, in my humble opinion, is cumbersome, expansive, expensive, and elongated.

I raise the question, Mr. President, why do we need 8 pages of legalese to do what my amendment does in one paragraph, that was just briefly read? Why do we need to hire legal counsel, and in addition, call upon any number of Federal agencies, consultants, and outside organizations, when in fact the FBI alone can do the job? Why should we and the American people wait 4 months-plus, when the FBI can do the job in just 30 days? Why do we need to expand and diffuse the focus of this investigation if we really want to get to the truth of the leaks concerning Professor Hill and Judge Thomas?

Mr. President, we need to take the most immediate and direct route to restoring the integrity and credibility of this historic and august body.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SEYMOUR. I believe my amendment best achieves that goal.

I yield to Senator DOMENICI 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to first congratulate the distinguished Senator from California, and thank him in behalf of many, many Americans for bringing this matter to a head so quickly.

I am not sure we would be here today, and I am sure by day's end, I am not sure we would be passing a proposition that will be new law, that will get to the bottom of the breach of confidential information in the immediate past, when we were considering Anita Hill almost begging somebody not to use her name and to keep everything confidential. And all of that now is behind us.

But we owe it to ourselves and to our people to find out who did that. Who was it that took confidential information and said it does not really matter; we are going to let it out; we are going to breach that trust, and let the chips fall where they may?

As I said Thursday evening, after we had determined all of this, it was our responsibility to get to the bottom of this. I asked the leadership that night to make sure we got there and got there quickly. I commend everybody who has moved this expeditiously. But I think the Senator from California deserves the accolades most. Also, I think he has the right attitude and right approach. We do not have to make this issue complicated; we do not have to make it take a long time, and we need not spend a lot of money.

He suggests we give the FBI the authority they need to interrogate witnesses, to swear them in, to use subpoena power, if necessary, and to report back to the majority leader and the minority leader in 30 days. We do not prejudge the case. We do not prejudge what was leaked, who leaked it. But we say: Find out how that information, which was confidential, got into the public domain.

Mr. President, I thank the Senator from California for yielding time. I hope his amendment is agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR. Mr. President, I yield 2 minutes to Senator BOND.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my distinguished colleague from California. I, too, commend him for bringing this very important matter before us.

Mr. President, the spectacle of the Senate these past few weeks has done nothing to convince the American public that we can be trusted with the simplest of tasks—much less the complex problems that face this Nation.

Thus, I believe we must act quickly to get our house in order—and that's what an FBI investigation would do.

Clearly we must reform the confirmation process, so that the public trusts our final judgment, so that nominees have a fair opportunity to present their views, and so that opponents can make their case—without reputations smeared or characters destroyed.

In discussions with people in my State, it is clear that fairness was the key ingredient they looked for throughout. Were we fair to Judge Thomas? Were we fair to Professor Hill? Was the leak fair to either? This is where confidentiality comes in.

Mr. President, Congress often faces difficult choices when accusations

about nominees come in. To avid opponents, all accusations are immediately accepted as true, to avid proponents, none are true. Thus it is left to the middle, and to a fair process, to sort the legitimate from the outlandish. This is where confidentiality and presumption of innocence come in—in short, respect for accusor and accused alike.

However, we must also differentiate between confidential and anonymous. Anonymous charges cannot be given credence because to do so is extraordinarily unfair to the accused—as they have no way of defending themselves, thus Professor Hill's early requests for anonymity meant the process of checking into her allegations could not proceed. However, confidentiality—which implies full and fair hearing of facts, but not in public—is certainly a legitimate approach to take.

Unfortunately, this was not what happened.

Mr. President, the amendment proposed by Senators SEYMOUR, GRAMM, myself, and others addresses only one aspect of this tragedy. It does not pretend to answer the question of credibility, although it may shed some light on motive. But what it will do is threefold:

First, restore the public's faith that acts indeed have consequences—and that the Senate is willing to see to it that illegal acts are punished accordingly;

Second, reinstate the belief amongst the 95 percent of Senators and staff who abide by the rules, and who believe in them, that we are not in some perverse way at a disadvantage because we play by the rules; and

Third, ensure that some justice is done in this case.

Mr. President, I do not believe the Senate can be expected to handle this case by itself, on its own, under its rules. It is the Senate itself which on its own, under its rules got us where we are today. That is why we must have an independent inquiry—but not an open-ended one as some have suggested. What we do not need is to create some giant inquiry probing every alleged leak, Because if we get into that, then we must also decide how far back do we go.

Just to the Keating hearings, as some would prefer? Well, what about Tim Ryan? What about John Tower?

Mr. President, clearly those leaks should be probed. But not as part of this inquiry. The American people are outraged about what has just occurred, and I believe we owe it to them to do something right in this whole sorry story.

We want an answer to the question—"Who leaked Prof. Anita Hill's confidential statement to unauthorized persons?" We do not want to initiate a wild goose chase through the past 5 years of leaks.

And unfortunately, until we get an answer to this question I am afraid we will deserve all the abuse and scorn the public heaps our way.

Mr. President, Clarence Thomas is now an Associate Justice of the Supreme Court, battered and bruised though he is. Prof. Anita Hill is a tenured law professor at the University of Oklahoma, battered and bruised though she is.

But those responsible for the leak, whoever they are, remain unscathed, probably unworried, caring little for the damage they have wrought. I find that offensive, and I want some answers.

Mr. President, the American people have proven themselves time and time again to be fairminded, thus their disgust and disillusionment with the spectacle they have seen. I believe it is time we take our responsibilities seriously and authorize the FBI to get to the bottom of the leak.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. I yield the floor to the majority leader, reserving the remainder of my time.

The PRESIDING OFFICER. If no one yields time, time will be deducted equally from both sides.

Mr. SEYMOUR. Thank you.

Mr. President, I yield 2 minutes to the Senator from Indiana, Senator COATS.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I take this opportunity to thank my colleague from California for is perseverance in pursuing what I think is a very important aspect of this entire Clarence Thomas nomination and confirmation process that the Senate has been undergoing for the past several months.

My colleague from California has insisted—and I have insisted along with him and have been happy to join in his efforts—upon an outside investigation of the facts concerning the leaks that occurred and the confidential information that was passed outside of the committee and outside of the Senate in what we suspect is a clear violation of the Senate rules, and may be a violation of the law.

What we are asking for under the Seymour amendment is nothing more than a factual determination of just what took place. And then, armed with that information, the Senate can decide what procedures and what steps it needs to take to pursue the question of whether or not Senate rules or the law was violated.

Senator SEYMOUR has had to exercise extraordinary perseverance in getting this body to comply with what I think is a very simple request. The Senate needs to have those facts. The Senate has demonstrated a shaky ability, at best, to gather those facts. So I support the Senator's efforts to have an outside FBI investigation. I trust that my colleagues will do the same.

Mr. SEYMOUR. Mr. President, I yield 3 minutes to the distinguished Senator from New Hampshire, [Mr. RUDMAN].

Mr. RUDMAN. Mr. President, I believe that this is a sound idea and that we ought to proceed on it. I want to say that I think it would be very difficult to reach the conclusion that we would like to reach, and that is to find out who in fact was responsible for this leak. This is probably the only opportunity I will have to speak. I do favor the proposal of the Senator from California because I think it is narrow and specific, and it has a good method of investigation.

But since I am on my feet, and since I will not have an opportunity to speak again, I am just wondering if the distinguished majority leader, my good friend from Maine, would yield for one question about his proposal.

Mr. MITCHELL. I am on the Senator's time, and I will yield for as many questions as he wants.

Mr. RUDMAN. The Senator is on my time, and I have 2 minutes left.

I notice that this resolution, as proposed by the majority leader—which, if I can count, probably will be adopted—not only includes what happened in the matter of Clarence Thomas' hearings but in the Keating matter as well. And in light of what the committee did at the direction of Senator HEFLIN and myself, I am curious why we are doing that.

I will simply say why. The GAO went after 70 witnesses, and every one cooperated and gave a statement. The only witnesses that were not talked to were two reporters from a newspaper who, in my view, there was no sense in talking to, because they would not reveal their sources anyway, and it would cause another confrontation between the Senate and the press. Each of the 70 witnesses signed a statement saying: "I have read this voluntary statement consisting of this and" so many other "pages, and it is true and correct. I have not been coerced, nor have any promises been made to me regarding this statement."

Under the Federal False Statement to Congress Act, it would be a misdemeanor to in fact lie; and every Senator, every lawyer, every respondent, every staff member was subjected to very intense questioning, this Senator amongst them. My question is: We have already spent a ton of money doing this. Why should we spend any more, because we are going to get the same answer? That is my question.

Mr. MITCHELL. Mr. President, the Seymour amendment provides to the Federal Bureau of Investigation the power to compel testimony and documents under oath. The GAO did not possess that authority when it con-

ducted that investigation. The Senator has said that some people were not called because it would have led to an unnecessary confrontation. The obvious reason they were not called is that they would not have been compelled to give testimony.

I believe that an investigation conducted without subpoena power, without the power to compel testimony and documents, is one category of investigation. There is another category that does have subpoena power and the power to compel testimony and documents, and I do not think the two can be equated. If the power of subpoena and the power to compel testimony and documents is not important, then why is it included in the Seymour amendment? I do not think you can equate an investigation conducted without such power and the results of that with an investigation that has such power.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. SEYMOUR. I yield 30 more seconds.

Mr. RUDMAN. Let me respond. I agree with every word he said. I just want to make one observation. There could have been subpoena duces tecum issued from the Ethics Committee. We made that clear to the GAO. We said, "Go do your investigation. If you need subpoenas, we will give them to you."

So I must say to my friend that, although he is technically correct, they did not possess the power, had any witness refused to testify, we would have issued a subpoena for that witness. None were necessary. I just say that we are going to spend another several hundred thousand dollars, and I prefer that we do not; but if that is what the Senate wants, I expect that is what we will have. I thank the Chair.

The PRESIDING OFFICER. The Senator from California has 15 minutes. The Senator from Maine has 20 minutes.

Mr. MITCHELL. Before the Senator from New Hampshire leaves, might I simply respond to his last comment briefly. This is on my time.

I say that, under this resolution, the GAO will be utilized, and all of the information which they have previously received will be utilized, so it will not be duplicated. There will be no duplication.

Mr. RUDMAN. I appreciate that. If that is true, and the FBI looks at the GAO report the way we did, they will find it high quality. It was done by the Office of Special Investigations and, hopefully, we can save some funds. I just do not want to waste any funds. That is my point.

Mr. BIDEN. Mr. President, the majority leader's resolution is broadly worded with respect to the investigation of leaks concerning the Thomas nomination, and I would like to clarify this language.

It is my understanding that the resolution authorizes an investigation of all unauthorized disclosures—violative of Senate rules or Federal law—relating to the Senate's consideration of the Thomas nomination. This would include matters beyond the disclosure of Professor Hill's charges, as I understand it.

For example, the disclosure of the committee's confidential document request to Judge Thomas; any unauthorized release of confidential committee staff interviews; and any unauthorized publication of confidential investigative reports would all be within the scope of the investigation.

That is my understanding of the majority leader's intention with respect to this resolution, and I applaud it.

Is that correct?

Mr. MITCHELL. Yes, the Senator is correct.

Mr. SEYMOUR. Mr. President, I yield 2½ minutes to Senator MCCONNELL.

Mr. MCCONNELL. Mr. President, millions of Americans viewed the last weekend of hearings on the nomination of Clarence Thomas, and the events leading up to them, with a profound sense of disgust. These sentiments have been echoed by many Senators.

Mr. President, the American people are angry. They are angry at the whole sorry spectacle of Clarence Thomas, Anita Hill, and dozens of witnesses being paraded before the Nation to discuss allegations that would not have been public but for a zealous staffer or Senator who was determined to stop Clarence Thomas' nomination—at any cost. And what a cost it was.

The Senate paid the price. Public confidence in us was already precarious, after the leak we may have hit a new low.

Clarence Thomas paid the price. His character was dragged through the mud. He was impugned beyond anything he could have imagined three months ago when the President nominated him, or three weeks ago—before the leak.

Anita Hill paid the price. Personally and professionally, she may never recover the credibility she had—before the leak.

A lot of people paid the price. Clarence Thomas' family and friends. Anita Hill's family and friends.

The entire Nation paid the price. Hours upon hours of televised hearings which would resolve nothing conclusively. The whole country was a jury and they were unanimous in one verdict—the whole thing was disgraceful.

Aside from the bad impression, the repercussions from this latest episode where confidential documents were leaked may have serious negative effects on future nominations and investigations.

Whoever leaked the confidential FBI documents established a dangerous precedent in which anonymous character assassination can be an effective means of short-circuiting the nomination process.

They sent a message to those whom the FBI seeks to interview in conducting background checks that any assurance of confidentiality is tenuous, at best. From now on, people know that they speak to FBI or Senate investigators at their own risk.

FBI agents cannot, with certainty, guarantee that someone's comments will not be leaked at some point by a Senator, staffer, or other official.

Mr. President, how can we expect people to provide the FBI with sensitive information knowing that they may turn up on the front page of every newspaper in the country, National Public Radio, or the evening news? We cannot.

This effort to sabotage the nomination of Clarence Thomas damaged the integrity and esteem of the U.S. Senate. It seriously undercuts the credibility of the FBI.

We must not let this gross breach of ethics, Senate rules, and the public trust, go unpunished.

Senator SEYMOUR has put forth very straightforward legislation: let the FBI determine who leaked the confidential information concerning the allegations made by Anita Hill. Make the FBI report their findings to the Congress within 30 days.

It is very simple, Mr. President. It is what we should do. It is what the American people want us to do.

Mr. President, we must also take action to prevent such leaks in the future.

Of the two principal laws governing the disclosure of classified documents, Congress has exempted itself from one, the Privacy Act, and so watered down the unauthorized disclosure law that it is nearly useless.

The legislative and the executive branch have been guilty of leaking classified documents in shortsighted efforts to further, or destroy, various nominees or causes. We should address this subversion of due process.

Last week, I introduced a bill to hold outlaw any unauthorized or unlawful disclosure by Senators, Senate officers, or employees of an FBI background investigation report—to any unauthorized party. To do so would result in criminal penalties, including a prison term and a fine. The same penalties would apply to anyone who knowingly solicits or receives such information.

It would also make the Privacy Act applicable to the Senate with regard to FBI background investigations relating to Presidential nominations for Federal office.

Many of my colleagues on both sides of the aisle expressed their fury at the leak which impugned the character of Clarence Thomas and forever changed the life of Anita Hill. There is bipartisan belief that selective leaking of classified documents throughout the Government has gotten out of hand.

Mr. President, let us work together to restore integrity to our system of

confidential and classified information. In the process, we may restore some of the esteem of the U.S. Senate.

Mr. President, the American people are grateful to the Senator from California for offering the one amendment that will respond to their concerns about the Clarence Thomas debacle.

Mr. President, the American people are interested in seeing the U.S. Senate get to the bottom of the issue of concern to them, which is the unauthorized leak of information damaging to Justice Clarence Thomas. There is only one amendment before us today that can, with certainty, in my view, guarantee that we at least make an expeditious effort to get to the bottom of that particular problem. That is the amendment offered by the Senator from California.

There is a broader issue, of course, and that is the propensity of the Congress to exempt itself from a variety of different onerous acts that we pass which apply to the rest of America. The President of the United States made a speech about that issue today. There will be amendments on that subject offered on the civil rights bill when we get there, including one of mine, which will apply to the current Privacy Act provisions, and to situations such as that which occurred during the Clarence Thomas confirmation proceedings.

As the American people are now learning, if anyone else had leaked the FBI reports or affidavits or whatever may have been leaked during the Thomas nomination, if any other Federal employee other than a Member of Congress or congressional staff had leaked that in a document, it would have been a crime; but we exempted ourselves.

We exempted ourselves. We are going to address that later.

With regard to specific abuse that occurred over the last few weeks, the Senator from California is right on the mark. I thank him for the contribution that he has made to this debate and his tenacity in pursuing this amendment even though there were some here who hoped it would not be offered. The Senator from California with his tenacity has made certain that that happens. I thank him on behalf of the people of my State, and I thank the people all over America, for leading the way to the solution of this problem.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR. Mr. President, I yield the floor to the majority leader, reserving the remainder of my time.

The PRESIDING OFFICER. If no Senator yields time, time will be counted equally.

Mr. SEYMOUR. Mr. President, I yield 1 minute to the distinguished Senator from Wyoming, Senator WALLOP.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I thank the Senator from California and express admiration for what he is trying to do and disgust of the procedure taking place in front of us.

It is clear that the majority party wants to have the last half-hour in front of the press without confrontation and other things. The majority leader has that right and there is nothing wrong with it. It is clear they are not interested in debate. I figure now as is always the case there is always a way in politics to avoid accountability.

The Seymour amendment goes directly toward a goal, one that is clear and one that the public wishes answered. The majority leader's amendment spends the time, spreads the blame, and divides the attention of America. If you pass enough time the public will have forgotten. And we use the argument that has been advanced so often in this case, that because others may have abused the process it is a license for us to abuse it as well. I suggest this is not the way the Senate ought to conduct itself.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SEYMOUR. Mr. President, I yield 2 minutes to the Senator from Mississippi [Mr. LOTT].

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Thank you, Mr. President. I thank the distinguished Senator from California for yielding the time. I commend him for the work he has done on this subject, for presenting it in the form that he did, and for being tenacious in keeping the Senate's attention on trying to find a proper solution for the investigation into the alleged leaks with regard to the Judge Clarence Thomas and Anita Hill matter.

I point out to you that the Seymour amendment is very simple, direct, limited, and targeted. It says let us see what we can find out, let us investigate it, let us do it in a limited period of time, and let us do it with an organization that is in place and can do the job. Let the FBI do the investigation and do it now. That is what Senator SEYMOUR proposes.

The alternative resolution is a document that runs on for 7-plus pages. And on its face I think there is a problem because you talk about an independent special temporary counsel, and the counsel will have to be agreed to by the two leaders. From past experience on the Ethics Committee, I know it is not easy finding a counsel, that will take time, and finding one that everybody agrees will be fair and independent. He would have to get together assistants, I presume, staff, someplace to work from, telephones. I think an FBI investigation could be completed before the special counsel could get going.

The issue is going to be defused by the fact that it is going back and will once again rehash the so-called Keating matter, which has already been investigated because of a bipartisan unanimous vote on the Ethics Committee. They did the work and I think spent many months and a lot of dollars on it. They got to the end of it. And that is all that happened with it.

I urge the adoption of the simple, direct, and immediate amendment of Senator SEYMOUR.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SEYMOUR. Mr. President, I yield 4 minutes to the Senator from South Carolina, [Mr. THURMOND].

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I strongly support the amendment by the distinguished Senator from California. I am a cosponsor of this important amendment.

When information is disclosed that is confidential or which is part of an FBI investigation, substantial damage is done to the dignity of this institution and the nominees it considers. Virtually every nominee before this body has an FBI investigative report which is available to Senate Members and a limited number of staff. An FBI report contains a vast amount of information—much of which is nothing more than baseless allegations. Clearly, it is not fair to a nominee to have baseless allegations with no merit whatsoever released to the public. When such information is released, it could ruin the integrity of a nominee and certainly undermines respect for the U.S. Senate.

Mr. President, the Senate has a rule that provides sanctions for disclosure of confidential information. The sanction is a harsh one—expulsion of the offending Member and termination of an offending staffer. This body understands the seriousness of violating this rule.

During the Justice Thomas nomination process, allegations were raised that confidential information was leaked to the press or the public. If true, I find such action despicable. Without question, nominees before the Senate face intense scrutiny. It is our responsibility to ensure that those nominated to high office are men and women of the highest character. I have found, throughout my almost 37 years in the Senate, that the vast majority of nominees we consider are in fact outstanding individuals. It is an important task of review we are called upon to undertake by virtue of our role in the confirmation process. However, when confidential information is released, the foundations of fairness that must be inherent in this process simply cease to exist.

Mr. President, the amendment by the distinguished Senator from California provides for an FBI investigation to de-

termine if there was a leak during the Thomas nomination process. This investigation will enable us to determine who, if anyone, is responsible for the disclosure of confidential information. I believe the FBI with its highly skilled agents is the best entity to undertake this important investigation.

Mr. President, those who are nominated for positions which require Senate confirmation must be treated fairly. It is now time to ensure that the process will be fair. It is my strong belief that an FBI investigation will identify any individual who disclosed confidential information during the Thomas nomination process. By undertaking this investigation, it will also ensure fairness in the future. If perpetrators can leak information with impunity, then there is every reason to believe they will continue to do so in the future. This amendment sends a strong message—if you disclose confidential information, you will be investigated and, if discovered, face tough sanctions.

Mr. President, it is important that we get to the bottom of any leaks of confidential information that occurred during the Thomas nomination. Those responsible should face severe sanctions.

Mr. President, I strongly endorse the Seymour amendment and urge its adoption by the Senate.

I ask unanimous consent to have printed in the RECORD an editorial from the Charleston Post and Courier of October 24, 1991.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

STOP SQUABBLING AND GET TO WORK

Democratic and Republican members of the Senate Judiciary Committee never tired of expressing their fury over the leak of allegations that Supreme Court Justice Clarence Thomas sexually harassed law professor Anita F. Hill 10 years ago. But apparently their outrage wasn't strong enough to spur swift action.

The Associated Press reports that even though Senate leaders are narrowing their partisan differences, they are still squabbling over how to investigate the source of the leak. Senate Majority Leader George Mitchell, D-Maine, presented his latest proposal privately to Minority Leader Bob Dole, R-Kan., on Tuesday night after a day of swapping proposals back and forth.

The Democrats don't want to confine the investigation to who released Miss Hill's charges to the press. In a transparent effort to take some of the heat off their party, they want to include other leaks, including a report issued by North Carolina Republican Sen. Jesse Helms on the Keating Five savings-and-loan scandal. According to the AP, most of the report is thought to be the confidential work of the special counsel who investigated the charges for the Ethics Committee, of which Sen. Helms is a member. The situations aren't comparable. If Sen. Helms stepped beyond the bounds, his colleagues know who to hold accountable. To date, all the members of the Judiciary Committee have denied any knowledge of who released Ms. Hill's confidential testimony.

If the leadership fails to agree on how to go about investigating the Judiciary Committee leak, the Senate should simply turn the matter over to the FBI, as proposed by Sen. John Seymour, R-Calif. Our question is why that wasn't the first order of business.

Additionally, Senate leaders must decide who would be in charge of the investigation. One possibility, Wyoming Republican Sen. Alan Simpson told the AP, is to hire a special outside counsel. That's not a bad idea, considering the bitter partisan nature of the extraordinary Judiciary Committee hearings in which Miss Hill's charges were aired.

The senators are mistaken if they think the American people will stand for business as usual on this fiasco. The longer the leadership tries to play political games with the Hill investigation, the lower the public's estimation of the Senate sinks.

Mr. THURMOND. I yield the floor.

Mr. SEYMOUR. Mr. President, I yield 3 minutes to the distinguished Senator from Texas, [Mr. GRAMM]

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank our dear colleague from California for yielding, and I thank him for his leadership on this important issue.

I think you can look at these two amendments and they tell you the whole story. On one hand we have a simple amendment that says there is a problem. The American people demand action. We want the FBI to come in now and do an investigation. We want them to put people under oath. We want them to get to the bottom of it. We want them to report back to the Senate so we can decide what to do. And we want them to do it in 30 days.

If you are serious about finding out who leaked this information, who violated the confidence of the people who trusted the Senate, then you want to be for the Seymour amendment. On the other hand, the alternative is this long laborious amendment that comingles this issue with other issues and that delays making a final finding and a report.

Mr. President, the issue is very simple: Do we want to get to the bottom of this question now? Do we want to focus on a problem that every American knows about, that about which virtually every American is outraged? Do we want to do it now while it is still timely, while it is still on the public mind? Or do we want to cloud the issue, delay the results, and put it off until some time in the future when the public has lost interest and when the public has lost confidence?

So, the issue is very simple: If you want to do it now, if you want to commit the resources to complete it within 30 days, if you want to focus just on the Thomas nomination and the violation of public confidence there, then there is only one vote to cast and that is the vote for the Seymour proposal.

So I urge my colleagues to vote for the Seymour amendment so that we can get an answer for ourselves, and for the American people, now.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from California has 3 minutes and 50 seconds remaining.

Mr. SEYMOUR. Mr. President, I yield 1 minute and 50 seconds to Senator THAD COCHRAN.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the Senator for yielding.

It is interesting to see the debate unfolding today with all of the discussion being on the Seymour alternative to the Democratic leader's resolution. All the time is being used in support of the Seymour amendment. I support it, too.

But, I would like to say at least one word in opposition to the majority leader's resolution. I think if you look at what he is proposing today, it is an authorization for an open-ended, very expensive, long, drawn-out investigation into not just the leak from the Judiciary Committee investigation but leaks from the Keating investigation as well. This is obviously to detract attention from what is before the Senate now, and that is what happened in the Judiciary Committee.

It is my hope that we would consider another alternative to the Mitchell proposal. Let us get a big tub of water somewhere and put the judiciary staff members in it. Those who do not sink are probably not telling the truth; those who sink are telling the truth.

I think, Mr. President, that one witch hunt in the Senate at a time is enough. We have one already that has been authorized by the Foreign Relations Committee. Almost $600,000 has been allocated for that investigation. Fifteen staff members are going to be utilized to try to determine whether or not, in the Presidential election of 1980, something was used to distract attention from the real issue before the voters.

It is my hope that we will narrow the focus of this investigation. Let us have a 30-day investigation by the FBI. If we can find out who leaked it, OK. If we cannot, forget about it, and move on to something else.

Mr. GRASSLEY. Mr. President, I rise in support of the amendment of the Senator of the State of California. The whole Nation knows the need for this amendment. The Judiciary Committee knew of the allegations that Professor Hill had made against Judge Thomas. These claims were taken seriously by having the Federal Bureau of Investigation launch an inquiry to determine their validity. The FBI fulfilled its duty and issued a confidential report.

Most members of the Judiciary Committee were made aware of this report before the committee voted on the Thomas nomination. Chairman BIDEN personally notified committee Democrats of the charges and made the FBI report available to each one.

Any committee member could have delayed the vote for 1 week as a matter of right. No member did so, despite the subsequent arguments of some members that they believed Professor Hill's charges. However, delay would have only slowed the nomination. Confidential hearings would have only delayed the nomination as well. Most opponents of Judge Thomas simply recognized that despite their valiant efforts, the nomination would be approved.

But somebody would not take no for an answer. Someone on the inside knew that there was one last chance to derail the Thomas nomination. Further investigation was unnecessary, the truth of the allegation immaterial. What was important was that the allegation existed.

If only it could be made known to the public, Judge Thomas still could be railroaded. So despite committee assurances to Professor Hill that her confidentiality would be respected, despite the opportunity to delay the vote or to ask for hearings in executive session. One or more persons on the inside went straight to the media. Or that person or persons divulged the confidential information to one of the special interest groups intent on defeating Judge Thomas. The group, in turn, released the charge to the media.

The media then went straight to Professor Hill, reading her words back to her for comment and ending her ability to keep her life private. Of course, it also caused damage to Judge Thomas that, despite his confirmation, will always remain, both to his psyche and to his reputation.

Mr. President, this action was a crime. Literally. The result of this crime was harm to two individuals, harm to our political process, and harm to the reputation of this body.

Who will ever again cooperate with an FBI investigation because of promised confidentiality, promises that are worthless? Who will ever believe that Congress will take its legal obligations seriously?

No one will, Mr. President, unless the FBI launches another investigation into who leaked the confidential FBI report. We certainly cannot think that an internal investigation will be sufficient.

An outside group must be given the ability to follow all leads to determine the source of the leaks and to show the American people that we mean business about our Members adhering to the law. The investigation must be swift and sure, and the amendment of my distinguished colleague from California provides for that. The perpetrator must be brought to justice, and I agree with Senator BYRD that expulsion is a possibility.

This measure should be supported not merely because it will lead to punishment of wrongdoing.

It will also deter future unscrupulous individuals from acting contrary to rules. Rules that are not enforced are worthless. Hopefully, we will soon be able to resolve a sad chapter in the history of this institution, one which has brought disgrace and public outrage to this body and has harmed forever the lives of two particular individuals, for whom rules provided no protection against someone who would stop at nothing in pursuing his political agenda. I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, I rise today in support of the Federal facilities compliance bill, S. 596, as amended. I would like to thank Senator MITCHELL, the original sponsor of the bill, and his staff, for their efforts over the past 2 years. They have worked closely with the Armed Services Committee to address, in amendments, several unique issues which are important to the Department of Defense and to the Department of Energy. The issues covered by these amendments involve military munitions, U.S. naval vessels, sewage treatment plants owned and operated by the Defense Department, and mixed waste at the Department of Energy and other Federal facilities.

This is an important piece of legislation, which we all hope will improve the Federal Government's compliance with solid and hazardous waste laws.

I would like to address very briefly what this bill does and does not do. There has been some confusion about the exact nature of this bill. This bill does not require Federal facilities to comply with environmental laws. Federal facilities, including military installations and the Department of Energy facilities, are already subject to and must comply with all of the many environmental laws, including the Resource Conservation and Recovery Act, which this bill amends. The purpose of this bill is to waive the sovereign immunity of the Federal Government and to permit the States to assess administrative fines and penalties against the Federal facilities if they fail to comply with the State and Federal solid and hazardous waste laws. This bill gives the States authority to assess fines, without going to court, if the Federal facility is not in compliance with these laws.

This bill is very important to the States. With the authority to assess administrative fines and penalties provided by this bill, the State regulatory authorities believe that their ability to enforce the solid and hazardous waste laws against the Federal facilities will be enhanced.

The goal of the authors of this bill is to achieve a greater degree of environmental compliance at Federal facilities. I share this goal and hope that this bill will bring the State and Federal regulators closer together to achieve this goal. This bill also has a downside potential to create an unproductive situation and undermine the Federal budget process. The ultimate success of this bill will turn on the manner in which this new enforcement authority is used. I hope that the States will use the authority judiciously so as to achieve the shared goal of making the Federal facilities a good environmental neighbor.

I would like to point out that in fiscal year 1992 the Department of Defense and the Department of Energy will devote in excess of $6 million toward environmental activities necessary to comply with the various environmental laws. This figure is increasing dramatically. At the Department of Energy, the defense environmental restoration and waste management budget in fiscal year 1992 represents approximately one third of the Department's defense activities.

This bill can bring a greater degree of sensitivity to environmental requirements at Federal facilities. Good faith enforcement of the environmental laws by the States is necessary, however, to ensure that the environmental programs at the Department of Defense and the Department of Energy continue to have sufficient resources to carry out their many obligations.

The goal of the States in enforcing environmental laws and the goal of the Federal facilities in complying with environmental laws, is the protection of the public health and safety. I hope these goals continue to be held by all involved parties. Defense environmental dollars are finite and should be put to their intended purpose—making the defense establishment a better environmental neighbor.

Mr. President, I would again like to thank Senator MITCHELL for his efforts and his persistence over the past 2 years. I also want to thank the Managers of the bill, Senator BURDICK, Senator BAUCUS and Senator CHAFEE, as well as the members of the Committee on Environment and Public Works, Armed Services, and Energy for their contributions to this bill. I urge my colleagues to support this bill and I urge the conferees to support the Senate position in their conference with the House.

The PRESIDING OFFICER (Mr. DIXON). The Senator's time has expired.

The Chair wishes to inform that side, that they have 1 minute 35 seconds; the majority leader has 27 minutes. The minority leader has 10 minutes of his own time. He can use it any way he cares to.

The Senator from California is recognized.

Who yields time?

Mr. SEYMOUR. Mr. President, I yield to the distinguished majority leader, reserving my last minute and 35 seconds.

The PRESIDING OFFICER. Who yields time?

Anybody care for recognition?

The Senator from California.

Mr. SEYMOUR. Mr. President, what occurred in the Senate Judiciary Committee in the leaks was a national disgrace and created a cloud over this body. There is a stench about it. The question is how are we going to get to the bottom of it and restore the credibility and faith and trust of the American people?

What happened to Professor Hill and Judge Thomas should not be permitted to happen again. They were placed on a hot griddle, like two pieces of bacon to be fried. This is a serious charge. These charges could lead, upon on FBI investigation, to the firing of some Senate staffer who is guilty of this leak. If it happens to be a Member of this body they could be expelled.

So I suggest, Mr. President, that what it demands is a thorough, straightforward, independent, credible and immediate investigation. That is embodied in my amendment, and I hope that my colleagues would join in support of it.

I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the distinguished majority leader.

Mr. MITCHELL. Mr. President, Members of the Senate, to selectively condemn leaks is to selectively encourage leaks. And that is precisely what we have heard from our colleagues this afternoon. Our Republican colleagues want to condemn one leak and one leak only. When other leaks occurred, they were silent. When leaks cascaded into the press that had as their objective the assassination of the characters and the destruction of the careers of some of our colleagues, not a word of protest was spoken. When Senators condemn only those leaks which injure their friends or their cause, they encourage leaks which injure others not their friends and not their cause.

The staff in the Senate act as they believe the Senators want them to act. And the staff members of these Senators here now have a clear message: If your leak is about someone that we do not care about, we are going to look the other way. That is the crux of the problem which has plagued the Senate. There is only one answer and one answer only.

I have had a policy in my office since I have been in the Senate that any member of my staff who leaks anything will be immediately fired. No ifs, ands, or buts. No questions asked. No appeal possible. No mitigating circumstances. Every member of my staff understands that is the policy. And, as a result, there has never been a leak from my office and there has never even been an allegation or a suspicion of a leak from my office. Because my staff knows that if they leak anything, even if it advances a cause I favor, they are gone.

We have heard now the opposite point of view: Only one leak matters. The other leaks do not matter. Let us not look at those. Let us not punish anyone there.

I submit to my colleagues that is the wrong message to be sending to the Senate. Every leak is wrong. Every leak is bad. Every leak should be condemned. Every leak should be deplored. Every leak should be investigated and persons punished. And that is what I have sought to do from the beginning.

The Seymour amendment has had nothing to do with this investigation. I announced this investigation before this amendment was drafted, stated, or proposed.

In March 1990, the President nominated Timothy Ryan to be Chairman of the Resolution Trust Corporation.

On March 30, it was reported in the media that there had been leaks from his FBI investigation about the occasional use of drugs long before that.

On April 4, Senator DANFORTH stood on the Senate floor and condemned that leak and demanded an investigation.

On October 16, 1991, just last week, Senator DANFORTH said the same thing, in very strong and passionate terms, demanding an investigation.

Well, I attempted to include in this investigation the Ryan leak but was prevented from doing so by opposition from the Republicans. Why should Republicans be so adamantly opposed to the investigation of a leak, when Republican Senators are demanding investigation of the leaks, especially with the President today calling for investigation of leaks?

A possible answer may lie in a report published last year. On April 6, 1990, a report appeared in a newsletter entitled "Congressional Insight" published weekly by Congressional Quarterly.

Mr. President, I ask unanimous consent that an appropriate portion of that report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

When Jack Danforth called for an inquiry into leaks on Tim Ryan—he probably didn't know they had come from fellow supporters of the President's nominee to head beleaguered Office of Thrift Supervision.

Allies leaked Ryan's admission that he used marijuana and cocaine—to inoculate him against attack on that issue, insiders say.

Someone told reporters March 30 that Ryan's FBI file included his own admission that he had used illegal drugs when he was in law school.

That's a "serious violation" of Senate rules, which say a senator or aide who leaks secret info should be expelled or fired, Danforth said.

Danforth (R-Mo.) suggested that the Ethics Committee investigate.

Ryan was set to reveal drug use himself, so backers did it first, said Tom Korologos, lobbyist who helped White House. Apparently, the idea was to get news stories out of the way several days before Senate was to vote.

Although stories referred to FBI report, information was available from other sources. Ryan was telling senators directly he had used drugs.

When Senate OK'd nomination April 4, drug use was a non-issue.

Ryan's admission gave senators a chance to signal that past drug use won't disqualify one from gov't service. A generation sighs in relief.

Mr. MITCHELL. The report states, Mr. President, that the leak of that FBI report was by White House handlers of the nominee to get news stories out of the way several days before the Senate was to vote.

I do not know if this report is true or not. I do not know Mr. Ryan. I never heard of Mr. Ryan before President Bush nominated him to be Chairman of the RTC. I have no idea who leaked the information about his prior drug use or why. But I believe the Ryan leak should be investigated, especially since the President spoke today on the subject of leaks. It would be a massive injustice—a massive injustice—for the Senate to be blamed for a leak that was carried out by the White House handlers of a nominee to gain a tactical and political advantage, if in fact that occurred. And I emphasize I do not know if that occurred.

I do not know what happened in that case or any of these other cases. But why are Republicans opposed to investigating that leak? Why are some leaks bad but not other leaks bad? Could this report possibly be true? Could the White House have engaged in some cynicism and manipulation? I do not know. But we should find out. We will not with this investigation.

Mr. President, during our discussion on this subject the matter of other possible leaks arose—maybe involving Republicans, maybe involving Democrats. I made clear then, I want to make clear now, I condemn all leaks, I deplore all leaks, and I believe we should investigate all of the leaks. I am for putting them all into this investigation. Let us do something to get something done to stop this, not seek political advantage by selecting one leak and ignoring others because it appears to create a political advantage of the moment.

I hope the President will call for an investigation of the Ryan matter in light of these published reports because I think it is wrong and improper not to.

Now, Mr. President, let me turn my attention to the competing measures before us. I served as a State prosecutor, as a U.S. attorney, and as a Federal judge, and I can say to everybody in this room that the Seymour amendment, with a 30-day deadline, is guaranteed to produce no result. This is an open invitation and an advertisement to everybody involved in this issue: If you can make yourself scarce for a couple of weeks, nothing is going to happen. An unrealistic, arbitrary deadline

is an open invitation to everyone involved in the process not to answer the phone, not to answer the mail, not to accept subpoenas. If you can just do it for a few weeks the whole thing is over. It is the bane of any investigation to have arbitrary, unrealistic deadlines against which the investigators must compete and toward which those who are involved must search.

This amendment would not accomplish anything, and everybody here knows that. This has nothing to do with an investigation, nothing whatsoever to do with an investigation. This is an effort to further politicize and publicize an event to gain a temporary political advantage.

The competing resolution is the product of negotiation between myself and the Republican leader and others involved. It does not include everything I would like. We reached agreement on everything but the scope of the subject matter. We could not agree on the subject matter.

It was, as we have heard clear here today, the Republican position that only the Thomas leak should be investigated, nothing else. I wanted more. I especially wanted the Ryan. But we could not get an agreement and so I reluctantly yielded on that point to permit us to get the agreement and to dispose of this matter so we can get this underway.

The time is a compromise. The Republican leader wanted 60 days, I wanted 180. We split the difference.

Much of the other language in terms of what the special prosecutor would report is the product of the compromise. We could not reach agreement on scope or subject matter, and that is what remains as the difference between us.

I believe it is a responsible, reasonable effort to deal with this problem in a responsible and fair way.

For those who say oh, you cannot go beyond 30 days, I say to you you are trying to guarantee that no result will be attained. You are handcuffing the FBI. You are inviting all of those involved simply to not participate. And all they have to do is not be around for a couple of weeks and the whole thing is over with. That is no way to investigate.

How many people here are former prosecutors? How many Members here ever imposed upon themselves deadlines of 30 days in a major investigation? Any law enforcement officer will tell you that is putting handcuffs on the investigators.

Obviously, you want to do it as fast as you can. You want to do it as promptly and thoroughly as you can, but not to create unrealistic, arbitrary deadlines which are for political purposes only and have the effect of producing no result.

The President this morning called for special counsel. I hope my colleagues, if they are influenced by the President's wishes on the subject, will take that into account.

I believe, Mr. President, that we have a most unfortunate situation. This institution has been injured; all of the Members of this institution have been injured. I made the judgment that this institution would suffer more from a prolonged, rancorous debate and discussion of this. As a result, I compromised on this resolution far more than I wished to, in an effort to reach agreement to dispose of the matter once and for all, to permit the Senator from California to come forward, offer his amendment and have a vote.

I say let us get it behind us, let us adopt a meaningful, fair, responsible approach that is intended to achieve actual results and which does not say only one leak matters and others do not, which does not, by selecting those to condemn, thereby condone others.

Leaks are as old as this institution. I recently, to refresh my recollection, read a lengthy article about the problems encountered during the Watergate hearings before the Ervin committee. An entire literature described the problems they had then with leaks. And I suppose, like many other unsavory aspects of human nature, they are going to be with us forever.

But it seems to me we can say this occasion has given us the opportunity to say in a meaningful, strong, affirmative way: This conduct is not condoned; this conduct is deplored; this conduct will not be tolerated, and not just in some cases, not just in one case, but in every case. And I suggest to my colleagues, more than any resolution, more than any investigation, if they will simply adopt and enforce the policy which I have had in effect in my office, leaks will either stop or very much slow down in this institution. You just make clear to every member of your staff they are not to leak anything, period. Not just when it helps, not just when it hurts. But in every case. No ifs, no ands, no buts, no exceptions; no leaks. And you make it clear to them that if anybody leaks anything they are fired on the spot instantly—no appeal, no mitigaing circumstances, no questions asked. That will stop leaks around here more then 100 resolutions and more than 50 amendments.

It has worked for me and I say it will work for everyone.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader has 12 minutes 30 seconds. The other side's time has been exhausted.

What is the pleasure of the majority leader?

Mr. COCHRAN. Mr. President, will the distinguished leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. COCHRAN. With respect to the suggestions to Senators on how to stop leaks in their offices, I wonder if the Senator would support an amendment to the Civil Rights Act that gave every employer that right.

Mr. MITCHELL. That gave what?

Mr. COCHRAN. Every employer in the United States, not just Senators, that right.

Mr. MITCHELL. The right to what?

Mr. COCHRAN. Fire employees.

Mr. MITCHELL. For leaks?

Mr. COCHRAN. That is right.

Mr. MITCHELL. I certainly will consider that. If the Senator will write the amendment up and submit it to me, I will be pleased to consider it, as I do all suggestions.

Mr. COCHRAN. I thank the distinguished leader.

Mr. MITCHELL. Mr. President, I am waiting to see whether or not the distinguished Republican leader wishes to use any of his time.

The PRESIDING OFFICER. May I advise the majority leader, the Republican leader does have his full 10 minutes. The majority leader has 9 minutes.

Mr. MITCHELL. Do I understand I have 9 minutes of my leader time plus 12 minutes?

The PRESIDING OFFICER. That is correct, the majority leader has 11 minutes and 22 seconds of his time on this issue plus 9 minutes on his leadership time.

Mr. DOLE. Mr. President, I understand leaders' time has been reserved; is that right?

The PRESIDING OFFICER. The Republican leader is correct. He has 10 minutes under leader time.

Mr. DOLE. I yield 2 minutes to the Senator from Wisconsin [Mr. KASTEN].

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise in support and as an original cosponsor of this amendment calling for an expedited inquiry by the Federal Bureau of Investigation into the leak of confidential information during the Thomas confirmation proceedings.

Many of us have taken the floor, or spoken to the media, in the last few days decrying the intentional leak of confidential information gathered by the FBI and presented to the Senate Judiciary Committee. Not only are our colleagues disgusted by this method of operating, but the American people demand to know how this happened.

There was every attempt by the chairman and ranking member of the Judiciary Committee to handle the allegations of Professor Hill in a confidential manner. Confidentiality had been requested and was called for under the committee's rules and the committee's past practices.

However, at the very end of the confirmation process, after 100 days of committee and FBI inquiry into the background of the nominee, these allegations became known to committee

members. Every member of the committee could have exercised their right to request that the executive session considering Judge Thomas be delayed for a week. Executive or other sessions could have proceeded, could have taken place at that time, but these allegations were not seen to merit further committee consideration.

So, then what happened? A disgruntled member or staffperson bypassed the procedures that are in place to protect the interests of all who are involved in this process, and surreptitiously leaked confidential information to the press.

In so doing, the reputations of Judge Thomas, Professor Hill, and the U.S. Senate were smeared before the American people.

This kind of conduct cannot be tolerated. Whatever punishment is appropriate under the law and our rules should be meted out to punish the conduct in this case and to deter such actions in the future.

We have to send the strongest possible message to those who would violate the law, our rules, and common decency, and leak information such as this. This body should not and must not tolerate such behavior.

I urge my colleagues to vote for this measure that would direct the best investigative professionals in the world to get to the bottom of this disgraceful lead, and then report back to Congress.

Mr. President, we have all been talking a big game as to the travesty that America witnessed during the Thomas confirmation. I submit that this investigation will allow us to act on the perpetrators in this case and will act as a deterrent against similar conduct in the future.

This is one time that the American people will be watching to see if our actions speak as loudly as our words. I urge the adoption of the amendment offered by Senator SEYMOUR.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. I yield 2 minutes to the distinguished Senator from Florida, Senator MACK.

The PRESIDING OFFICER. The distinguished Senator from Florida is recognized for 2 minutes.

Mr. MACK. Thank you, Mr. President. Let me make several points. The first is that I think it is about time we as Senators regained control of this body. There is a feeling in this Nation that we do not have control and that staff are acting in perhaps improper ways. This concerns many people and the credibility of this institution is in question. I think we should investigate and I think we ought to move fast.

With all due respect to the majority leader, I believe finding some alternative way to deal with the confidential leak is, in fact, a smoke screen, and the people of this country are going to see it for exactly that. There is a very specific issue here, and that is the question of who leaked what documents during Justice Thomas' nomination proceedings—not investigations which should have taken place a year, or 5 years or 10 years ago. Mr. President, what we need to do as a body is focus on what happened in this institution just a few weeks ago. This is why we are trying to narrowly direct our attention to this particular incident.

Second, if we do not act, and seek to determine the truth, what we are really saying to the American public is that everybody is off the hook. Further, lack of action on our part encourages individuals to leak confidential materials again and this institution's credibility is hurt even more.

There are charges that are being alleged against specific staff members. Their names have been in the paper. There are charges being made about specific Senators. We must narrowly confine this investigation, and seek to come to a conclusion very quickly. Mr. President, I am in strong support of the position of the Senator from California and I thank him for bringing this critical matter to the Senate floor.

I thank the Chair.

The PRESIDING OFFICER. The Republican leader has 6 minutes.

Mr. DOLE. I yield 1 minute to the Senator from Maine.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. COHEN. Mr. President, I simply would like to pose a question to my colleague from Maine. I sat and listened to much of his argument, and I was impressed with the fact that indeed 30 days appears to me to be a timeframe which is not long enough.

I was wondering whether the majority leader would object if I or someone else were to propose that we amend the pending amendment to extend it, say, to 90 days to conduct the investigation? That certainly would be sort of half way between the majority leader's timeframe and the 30 days proposed. I think that would be a much fairer timeframe in which to conduct this initial operation.

I am inquiring of my colleague as to whether he would be amenable to allow the Senator from California to amend his own amendment and to extend it to a 90-day timeframe.

Mr. MITCHELL. Mr. President, that, of course, directly contradicts the Senator from California on that point. If he is prepared to acknowledge that he was in error and reverse his position, I will have no position to that amendment.

I did not realize I had such powers of persuasion to get the Senator from California to reverse his position on his amendment. Maybe if I use the rest of the time, I will get him to withdraw the amendment.

Mr. COHEN. If the Senator will yield, he has not persuaded him, but has persuaded me.

Mr. MITCHELL. Mr. President, indeed not just the Senator from California, but just about everyone who spoke in behalf of his amendment. The reasoning of his amendment is that it was quick. If all Senators were prepared to withdraw their argument and acknowledge they were in error, who would I be to stand in the way? I would say, sure, my amendment has prevailed. I certainly would not object to that. Make it 120 days.

Mr. COHEN. I assume the majority leader would support the amendment of the Senator.

Mr. MITCHELL. No; I would not support the amendment for the other reasons I have stated.

The PRESIDING OFFICER. The Chair reluctantly interrupts. The Republican leader still has 4 minutes.

Mr. DOLE. Two, two, and one will be five.

The PRESIDING OFFICER. I thought the Republican leader said 2. I apologize. I let it go 3. I was so interested in the discussion.

Mr. DOLE. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. That will leave 1 minute remaining. The Senator from California.

Mr. SEYMOUR. Thank you, Mr. President, and thanks to the distinguished Republican leader.

Senator MITCHELL made much about 30 days and that it cannot be done. But yet I find that the FBI did, in fact, perform to a T in less than 30 days when it came to investigating the allegations of sexual harassment by Professor Hill. Maybe you would suggest that they did not do a good job. From everybody I talked to, it seems to me it was pretty thorough.

Let me also say, Mr. President, that as to the point the distinguished majority leader has raised relative to only one leak. Nobody is opposed to investigating—I am not opposed to investigating—all the leaks you want.

But where were you in investigating the leaks at the time they occurred? Why all of a sudden do you bring them forth? If you would like to bring them separately, at a different time, I will be the first to support that.

It just seems to me—and I am not an attorney so I cannot speak as a distinguished barrister as is the Senator from Maine, but it just seems altogether logical to me that the more investigations we undertake at the same time, the less likelihood there is we will get to the bottom of the one in which we are really interested.

Let me also say that the longer you go in this investigation, the longer you take, the more likelihood people are going to forget, maybe conveniently forget. Maybe they will leave town permanently. Therefore, it seems to me, in the interest of getting to the bottom of this as quickly as possible, we need a very short time period, and if, in fact,

in order to get the Senator's support, it would mean stretching the time from 30 to 60 days, I would be happy to do that.

Now, what the distinguished majority leader asked for here is to expand the focus of this and to investigate the Keating leaks. The Keating matter has been dragging on for 2 years. I am not sure we are ever going to get to the bottom of it. The fact that the President today called for an independent counsel, that would be fine for me if that is where it would stop. But you see in his resolution of eight pages the majority leader does not stop at independent counsel. The resolution calls upon every available agency that the independent counsel might think of for investigating. It calls for outside consultants. It calls for a temporary office to be set up in the Senate. It calls for a meeting of the payroll for whatever staffs or mail costs or telephone costs that might be incurred. So although it does try—and I certainly applaud his efforts—to, in fact, initiate an investigation, this approach makes it most cumbersome.

And so, Mr. President, I thank again the distinguished minority leader for granting me some of his time. It seems to me that if you want to get through all of the smoke and mirrors, if you want to really get to the bottom line, then, in fact, you would support the amendment I have offered.

The PRESIDING OFFICER. The Senator yields the floor. The Republican leader is recognized.

Mr. DOLE. May I proceed for 3 minutes.

Mr. MITCHELL addressed the Chair.

Mr. MITCHELL. I just want to say I have adequate time on my side and, if the Senator from California wants additional time to complete his thoughts, I will yield him a couple minutes of my time.

The PRESIDING OFFICER. May I advise that there is 6 minutes, 59 seconds remaining in possession of the majority leader.

Mr. MITCHELL. Plus my leader time; is that correct?

The PRESIDING OFFICER. Plus the majority leader's time, which is 15 minutes.

Mr. MITCHELL. Mr. President, if he does not want time, that is fine. I just wanted to make sure the Senator from California was not cut off. I have time I will not use and I will yield it.

Mr. SEYMOUR. I appreciate the Senator's offer. I thank the Senator.

Mr. MITCHELL. Mr. President, I yield 2 minutes of my time to the Senator from California if he wants to use it.

Mr. DOLE. Does the Senator want more time?

Mr. SEYMOUR. No. I am sorry; he misunderstood. I thank him for his generosity and kindness, but I had closed.

Mr. MITCHELL. Fine. I thank the Senator.

The PRESIDING OFFICER. The Republican leader is recognized for 3 minutes.

Mr. DOLE. Mr. President, I think this matter has been properly focused. As I recall discussions for most of the day yesterday, at least part of the day yesterday, were on scope and, to some extent, time and what agencies would be used. I think we probably could have gone either way. My view was that the public is interested in the leak in the Thomas matter. They are not so interested in what happened to the Keating Five. They figure Senators are involved and they can take care of themselves.

Now they have forgotten about the Ryan case and they have forgotten about the Blue Bonnet Savings and Loan and the Southwest Savings and Loan, CenTrust, and a lot of other places where there have been leaks.

I thought, in an effort to focus on what I believe the American public was concerned about, we ought to just take the Thomas case. And I even suggested maybe we do the Thomas case first, if there are going to be two or more, and report on that first. We could not reach agreement on that.

But I do believe that the Seymour resolution is properly focused. If the American people had any concern about Congress and about the Senate of the United States or the Judiciary Committee, whatever, it is because they question our credibility and they question whether or not we would ever get to the bottom of anything.

The point I make again, in support of the resolution of the distinguished Senator from California, is that it is straightforward. A lot can happen in 30 days. We had the coup in 3 days in the Soviet Union, so we might even be able to investigate something in 3 days. Maybe in 30 days we could surely finish it off. So I am not certain we need to expand it.

But having said that, let us be realistic. I think the distinguished majority leader has properly stated the case. He is the majority leader. I am the minority leader. The last time I counted they had 57 votes and we had 43—43 Members, I hope 43 votes and maybe more—for the Seymour resolution.

And so we will vote first on the majority leader's proposal for independent counsel, which was suggested earlier, I might add, by the distinguish Senator from Colorado, Senator BROWN, at least in that concept. But in either case there is going to be an investigation. The two leaders have to agree on counsel, and I believe that can be done. It is my hope whatever happens, today, within a week or 10 days we have an investigation that is started. And we are going to take the responsibility for it. I am not certain we welcome that, but we are the leaders on each side and we have to take the responsibility for it.

I just conclude by commending my friend from California for his efforts. I am not certain who got there first, but he was tenacious. He pushed and pushed and pushed, and I believe that part of the reason we are resolving it today is because of the efforts of the distinguished Senator from California. I thank him for that.

I yield back any time I may have.

The PRESIDING OFFICER. The Republican leader yields the floor. The distinguished majority leader is recognized.

Mr. MITCHELL. Mr. President, I will not detain the Senate for long further. I merely wish to comment on some of the points that have been raised in these latter moments.

I, of course, have the greatest respect and friendship with the distinguished Republican leader. We do work together on a daily basis, but we do often disagree, and on this I respectfully disagree. The Seymour amendment is superfluous, unnecessary, has no effect upon an investigation, and is obviously simply a further effort to politicize and publicize this matter.

I called for an investigation immediately, have insisted that there be an investigation, and the only thing that has been deterring it has been the unwillingness of Republicans to agree to any investigation other than the Thomas leak. That has been the only delaying factor, an unwillingness to look at other leaks. Why? Obviously, because they might involve Republicans, because the injured parties were Democrats. What are they afraid of? Why are you so afraid of an investigation? Why are you so unwilling to have an investigation of leaks?

The answer is obvious. They see a short-term political gain in this one leak. And so it is very clear that the issue here is not leaks. The issue here is short-term political gain. Because, if my colleagues shared the concern about leaks, they would be concerned about more than one leak. But they are not.

I repeat what I said at the outset. To selectively condemn leaks is to selectively encourage them. This debate has sent out across this institution and across this country a very clear message, that if a leak helps the cause or hurts someone on the other side, it will not be condemned, it will not be deplored, and it cannot be investigated. That is the message.

My message is directly the opposite. The message I have stated over and over again, and I repeat again here today, every leak is a bad leak. Every leak is to be condemned. Every leak is to be deplored. The end does not justify the means. And a leak which harms the opponent is just as wrong as a leak which harms a friend. A leak which injures a cause I oppose is just as wrong as a leak which injures a cause I favor.

I commend to every one of my colleagues the policy which I have in ef-

fect since I have been in the Senate: Any member of my staff who leaks anything improperly is immediately discharged, no ifs, no ands, no buts, no appeals, no mitigating circumstances. If our colleagues would adopt and enforce that policy, then we will see fewer, perhaps no more, because there has never been a leak from my office, and there has never been a suggestion or a hint or a question of a leak from my office.

So, my colleagues, we have here a choice between a resolution for an independent counsel, which the distinguished Republican leader properly pointed out was first suggested by the Republican Senators, and endorsed this morning by the President of the United States, which calls for an investigation of more than just one leak so we do not send out the message of selective condemnation of leaks, and does it in a responsible way and in a responsible timeframe.

The alternative is an amendment to the bill that is guaranteed to produce no result and which has as its only and obvious and transparent purpose a further politicization and publicity on this matter here. In my view, the choice is clear.

I urge my colleagues to support the resolution and oppose the Seymour amendment.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The majority leader has 1 minute 36 seconds.

Mr. METZENBAUM. Mr. President, there is no one in this Senate who wants to resolve this question more than this Senator. The truth is my best ally.

From the moment one Senator told the New York Times that HOWARD METZENBAUM was the only one who could have leaked this, I have consistently appeared on the list of suspects in the case.

Never mind that the Senator who made the accusation had no evidence. Never mind that the Senator came to the floor to apologize. Never mind that I was one of the first Members of the Senate to call for an investigation. Never mind that I have taken to the floor more than once to refute it. The big lie strategy worked—and the charge has been repeated over and over again.

So even at the risk of protesting too much, I take the floor again to refute that Senator's allegations, and those that have been repeated since this story broke.

As every Senator knows, but the public may not, the FBI file is a closely held document. A Senator must ask to see it. It is brought to the Senator's office by a top aide to the chairman who sits there with you while you read it. No one but Senators may read the FBI file and when the Senator is finished reading, the committee staffer takes it away.

I want to add a few more facts to the mix here. Over the weekend, I finally read the Newsday article of October 6. The source for this story was an individual who had seen the FBI report. In the radio report on NPR, information is attributed to "sources who've seen the FBI report."

I did not see the FBI report until the day after the story broke. I repeat, I did not see the FBI report until the day after the story broke.

With respect to Professor Hill's written statement to the committee, which apparently was leaked as well, I did read that. It was delivered to my office shortly before the vote on Judge Thomas, and was retrieved by a committee staff person after that vote. After I read it, I taped the envelope shut, and handed it back to my personal secretary. It was never reopened. It was never copied. This statement was available to Republicans and Democrats on the committee, it was available to officials in the White House—it was available to officials at the Justice Department.

Mr. President, I only offer this information because I feel it necessary to counter the anonymous finger pointing from the right.

Mr. President, I do not know who leaked this confidential information to the press.

I do know that I did not, and that there is not a shred of evidence to support the suggestions that I did. Those who are suggesting that I did are engaging in the very conduct they say they abhor.

Mr. President, I was one of the first members to call for an investigation into this matter. I am eager to support and to cooperate with this investigation. Let us put an end to the baseless finger pointing and suspect-of-the-week syndrome and get on with the investigation.

Mr. MITCHELL. Mr. President, we have been awaiting holding up the vote to accommodate one Senator. I understand that schedule is now acceptable. So I yield.

Mr. STEVENS. Mr. President, will the Senator yield for just one question?

Mr. MITCHELL. Certainly.

Mr. STEVENS. Mr. President, I want the Senator to know I intend to support his resolution. But I also support the amendment of the Senator from California. One is a resolution and the other would become a matter of law. I do think they could both deserve support. Would the Senator disagree with that?

Mr. MITCHELL. I am for my resolution, and am opposed to the Seymour amendment.

Mr. President, I yield the remainder of my time. I believe we are now ready to vote.

The PRESIDING OFFICER. The majority leader yields back the remainder of his time.

The question is on agreeing to Senate Resolution 202. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. (Mr. KOHL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—86

Adams	Exon	Mitchell
Akaka	Ford	Moynihan
Baucus	Fowler	Murkowski
Bentsen	Garn	Nickles
Biden	Glenn	Nunn
Bingaman	Gore	Packwood
Bond	Graham	Pell
Boren	Grassley	Pressler
Bradley	Hatch	Pryor
Breaux	Hatfield	Reid
Brown	Heflin	Riegle
Bryan	Helms	Robb
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Roth
Byrd	Jeffords	Rudman
Chafee	Johnston	Sanford
Coats	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerry	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Thurmond
Dixon	Lugar	Warner
Dodd	McCain	Wellstone
Dole	McConnell	Wirth
Domenici	Metzenbaum	Wofford
Durenberger	Mikulski	

NAYS—12

Burns	Gramm	Seymour
Cochran	Kassebaum	Smith
Craig	Lott	Symms
Gorton	Mack	Wallop

NOT VOTING—2

Harkin	Kerrey

So, the resolution (S. Res. 202) was agreed to, as follows:

Resolved,

SECTION 1. CONDUCT OF THE INVESTIGATION.

The Federal Bureau of Investigation, the General Accounting Office, and any other Government department or agency as may be appropriate, shall be utilized in carrying out the investigation required by this resolution and the special independent counsel established by this resolution may, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable, or on reimbursable, basis the services of personnel of any such department or agency.

SEC. 2. OFFICE OF TEMPORARY SPECIAL INDEPENDENT COUNSEL.

There is established, as a temporary office of the Senate, an Office of Temporary Special Independent Counsel, which shall be directed by a special independent counsel (referred to as the "special independent counsel"), with administrative support from the Secretary of the Senate, to conduct an investigation of any unauthorized disclosures of non-public confidential information from Senate documents in connection with following investigations:

(1) the consideration of the nomination of Clarence Thomas to be an Associate Justice

of the Supreme Court by the Committee on the Judiciary; and

(2) the investigation of matters related to Charles Keating by the Select Committee on Ethics.

SEC. 3. APPOINTMENT OF THE SPECIAL INDEPENDENT COUNSEL AND EMPLOYMENT OF STAFF.

(a) The President pro tempore of the Senate, upon the joint recommendation of the Majority Leader and the Minority Leader, shall appoint and fix the compensation at an annual or daily rate of pay, or shall contract for services in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), of a special independent counsel to direct the office established in the preceding paragraph. The President pro tempore of the Senate, upon the joint recommendation of the Majority Leader and the Minority Leader, may terminate the special independent counsel at any time.

(b) The Secretary of the Senate shall, upon the recommadation of the special independent counsel and with the joint approval of the Majority Leader and the Minority Leader, appoint and fix the compensation of such additional staff, including staff appointed at daily rates of pay, as are necessary to carry out the purposes of this resolution.

(c) Any employee appointed under this resolution may be paid at a rate not to exceed the maximum annual rate of pay for an employee of a standing committee of the Senate.

SEC. 4. EXPENSES OF INVESTIGATION.

(a) The expenses of the investigation of the special independent counsel shall be paid out of the Contingent Fund of the Senate from the appropriation account Miscellaneous Items upon vouchers approved by the Secretary of the Senate, except that vouchers shall not be required for—

(1) the disbursement of salaries of employees who are paid at an annual rate;

(2) payment of expenses for telecommunications services provided by the Telecommunications Department, Sergeant at Arms, United States Senate;

(3) the payment of expenses for stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) the payment of expenses for postage to the Postmaster, United States Senate; and

(5) the payment of metered charged on copying equipment provided by the Sergeant at Arms, United Senate Senate.

(b) In carrying out the provisions of this resolution, the special independent counsel may procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(c) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray the expenses incurred in carrying out the provisions of this resolution.

SEC. 5. COOPERATION OF THE SENATE.

All committees, Senators, officers, and employees of the Senate shall cooperate with the special independent counsel in conducting the investigation required by this resolution.

SEC. 6. DEPOSITIONS AND SUBPOENAS.

(a) The special independent counsel shall have the power to conduct depositions, at any time or place, of witnesses under oath, including oaths administered by individuals authorized by local law to administer oaths, for the purpose of taking testimony upon examination by any counsel designated by the special independent counsel, and receiving correspondence, books, papers, documents, and other records.

(b) At the request of the special independent counsel, the President pro tempore of the Senate shall have the power to authorize subpoenas, which shall be issued by the Secretary of the Senate, on behalf of the Senate for the attendance of witnesses at depositions under section 6(a) and for the production of correspondence, books, papers, documents, and other records.

(c) The chairman and ranking member of Committee on Rules and Administration, acting jointly, shall adopt rules for the conduct of depositions and other matters related to the investigation required by this resolution, which shall be published in the Congressional Record. The rules may be amended by the same process.

(d) If a witness refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with the investigation required by this resolution, the chairman and ranking member of the Committee on Rules and Administration, acting jointly, shall rule upon such objection, or they may refer such objection to the full Committee on Rules and Administration for a ruling.

(e) The Committee on Rules and Administration may make to the Senate any recommendations by report or resolution, including recommendations for criminal or civil enforcement, which the Committee may consider appropriate with respect to—

(1) the failure or refusal of any person to appear at a deposition or to produce records in obedience to a subpoena or order; or

(2) the failure or refusal of any person to answer questions during his or her appearance as a witness at a deposition,

in connection with the investigation required by this resolution.

SEC. 7. REPORT OF THE SPECIAL INDEPENDENT COUNSEL.

The special independent counsel shall report the counsel's findings regarding all matters relevant to the investigation by transmitting the report to the Majority Leader and the Minority Leader. The Leaders shall make the report available to all Senators. The Majority Leader and the Minority Leader or their designees shall make—

(1) a determination on referral to the appropriate law enforcement authority of any possible violation of Federal law;

(2) a determination on referring to the appropriate committee any disciplinary action that should be taken against any Senator, official, employee, or person engaged by contract or otherwise to perform services for the Senate, who may have violated any rule of the Senate or of any Senate committee;

(3) a determination on referring to the appropriate executive branch any questions involving the conduct of any official or employee of the executive branch responsible for the unauthorized disclosure; and

(4) recommendations for any changes in Federal law or in Senate rules that should be made to prevent similar unauthorized disclosures in the future.

SEC. 8. EFFECTIVE DATE.

The special independent counsel shall submit the report required by this resolution not later than 120 days after the appointment of the counsel.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1271

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—43

Bond	Gramm	Packwood
Brown	Grassley	Pressler
Burns	Hatch	Roth
Chafee	Hatfield	Rudman
Coats	Helms	Seymour
Cochran	Jeffords	Simpson
Cohen	Kassebaum	Smith
Craig	Kasten	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Durenberger	McConnell	Warner
Garn	Murkowski	
Gorton	Nickles	

NAYS—55

Adams	Exon	Mitchell
Akaka	Ford	Moynihan
Baucus	Fowler	Nunn
Bentsen	Glenn	Pell
Biden	Gore	Pryor
Bingaman	Graham	Reid
Boren	Heflin	Riegle
Bradley	Hollings	Robb
Breaux	Inouye	Rockefeller
Bryan	Johnston	Sanford
Bumpers	Kennedy	Sarbanes
Burdick	Kerry	Sasser
Byrd	Kohl	Shelby
Conrad	Lautenberg	Simon
Cranston	Leahy	Wellstone
Daschle	Levin	Wirth
DeConcini	Lieberman	Wofford
Dixon	Metzenbaum	
Dodd	Mikulski	

NOT VOTING—2

Harkin	Kerrey

So, the amendment (No. 1271) was rejected.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, the environmental problem at Federal facilities is a large problem. Federal agencies operate more than 2,300 facilities that treat, store, or dispose of haz-

ardous waste or have done so in the past. There are thousands of hazardous waste disposal units at these facilities, hundreds of which will require corrective action to protect human health and the environment.

It will cost billions of dollars to bring the ongoing operations at these facilities into compliance with the Federal environmental laws. It will cost tens of billions and take many years to correct the past abuses.

There are sites in every single one of our States. So, every Senator has experienced the frustration that is the essence of the cleanup process. In Minnesota, the principal Federal facility is the Twin Cities Army Ammunition Plant, called TCAAP, located in New Brighton. The industrial solvent TCE, a waste from a manufacturing process, was disposed in a lagoon at TCAAP for several years in the 1950's and 1960's. The plume from the lagoon eventually contaminated 25 square miles of the principal aquifer supplying drinking water to the Twin Cities.

The problem was discovered in the late 1970's. Eight families living near the plant lost their drinking water wells. The city of New Brighton lost its municipal wellfield. The problem had just been discovered about the time I was elected to the Senate. It took 10 years for me to get the Army to admit its responsibility for the release and to sign an agreement to clean it up. The attorney general of Minnesota, Hubert Humphrey III, deserves great credit for that agreement. It was the first of its kind in the Nation.

But it is just an agreement to take action. Complete cleanup of the site will take more time. There is no hope of restoring the aquifer to its former purity. The city of New Brighton has been compensated. But the litigation with the eight families goes on. The Army has yet to offer a settlement in that case, and apparently, these families will have to take on the Army and the Justice Department in a trial to recover the loss which they have suffered.

That Mr. President, is the reality of the Federal facilities problem for just one of the 50 States. When the issue before us today is looked at from that perspective, my instinct is to give EPA and the States every tool available to force action at these sites. A big fine laid on the Army in 1980 or 1981 might have saved years of frustration for the people of Minnesota in the New Brighton case.

I do see evidence that the attitude at the Department of Defense is changing. DOD is now looking to make rapid progress in resolving these problems. Staff of the Department have been straightforward and helpful in resolving the many issues that have been raised by this legislation.

The administration has been blamed for foot-dragging here on the floor of the Senate today, but it is not the entire administration. I sense that most of the departments and agencies are now eager to get on with the job of cleanup. The one holdout is the Department of Energy. They have historically been the worst polluter and it is clear that they will be the last to change their attitude about public health and safety.

Mr. President, I would like to comment in detail on one of the amendments which is being added to this bill this afternoon. An amendment has been offered to this bill which will affect the regulatory status of sewage treatment plants at Federal facilities.

Under the Solid Waste Disposal Act, materials that are mixed with domestic sewage are not considered to be solid wastes. This means that hazardous wastes that are discharged by an industrial facility to a city sewer are not subject to the subtitle C hazardous waste regulation of RCRA. When these wastes are mixed with sewage, they lose their status as waste under RCRA.

This provision, which is found in the definition of solid waste in the RCRA statute, is called the domestic sewage exclusion. The theory is that wastes discharged to a sewer will be regulated under the Clean Water Act pretreatment program and that regulation under RCRA is therefore not required.

The domestic sewage exclusion has not been available to sewage treatment plants operated by Federal agencies. There are many such plants. They are located on military facilities all across the country. They receive domestic sewage from the offices and living quarters on the base. And they may also receive industrial wastes from manufacturing facilities and machine shops that may be located on the base.

Although these federally owned sewage treatment plants mix industrial waste and domestic sewage, they have not been eligible for the domestic sewage exclusion from hazardous waste regulation because EPA regulations limit the exclusion to sewage treatment plants owned by local governments. In the jargon of environmental law, these locally owned plants are called publicly owned treatment works or POTW's. Federal facilities are not POTW's. And although a sewage plant owned by the Federal Government may operate in every respect just like a POTW, it has not been eligible for the domestic sewage exclusion.

The purpose of the amendment is to create an exclusion like the domestic sewage exclusion for federally owned treatment works. The amendment does not modify the definition of solid waste under RCRA, nor does it modify the EPA regulations. Rather, a new section is added which provides that federally owned treatment works shall not be considered to be handling a hazardous waste, even though they are, in fact, handling a hazardous waste, if certain other conditions are met. These conditions include permit and pretreatment requirements.

I emphasize again that the domestic sewage exclusion, which is an exclusion from the definition of solid waste, is not involved in this amendment. The amendment, rather, addresses the status of a sewage treatment plant owned by the Federal Government that is receiving a hazardous waste.

This is an important distinction because it is only the receiving facility—the so-called FOTW, the federally owned treatment works—that is affected by this amendment. The industrial facility generating the waste and the status of the waste itself prior to entering a qualifying FOTW are not affected by the amendment. In fact, subsection (c) of the new RCRA section added by the amendment explicitly provides that no waiver from any RCRA subtitle C requirement is in any way granted to the industrial unit that generates the hazardous waste.

In that respect this amendment is unlike the domestic sewage exclusion. Because the domestic sewage exclusion affects the definition of waste, the material discharged to a POTW by an industrial facility is not a hazardous waste when it mixes with domestic sewage and RCRA does not apply to the waste or to the industrial facility. The amendment, with respect to federally owned treatment works, operates on a different principle, affecting the status of the receiving facility only.

The point is made absolutely clear in subsection (c) of the proposed section 6006 which requires the industrial facility generating the waste and pretreating it to meet all RCRA requirements. These requirements would include manifesting, treatment, storage, permit, and disposal requirements. The industrial facility generating the waste remains a hazardous waste generator and must manage the waste under all of the RCRA requirements that currently apply to such a facility and to hazardous waste. It is only the sewage treatment unit, that receives a waste stream containing mostly domestic sewage, that is affected by the amendment.

I want to touch on one final issue, Mr. President. To me it is clear that Congress intended in RCRA that Federal facilities be treated in all respects in just the same way as private parties. Nothing in the legislative history of section 6001 of RCRA suggests that any distinction, with respect to fines and penalties, was made. The language is not crystal clear, as it is in the Clean Air and Safe Drinking Water Acts, but there is no suggestion in any part of the history of these statutes that the intention was any different. S. 596 simply clarifies that intent.

Mr. METZENBAUM. Mr. President, I strongly support this legislation.

If we are serious about protecting our environment then we cannot have a double standard which punishes private companies and individuals who break environmental laws but allows the Federal Government to escape fines and penalties when it pollutes.

The threat of strong enforcement actions, including the assessment of fines and penalties, encourages the private sector to negotiate timely cleanups and to think twice before they pollute again.

This is a very important club. And it is exactly what the States need when dealing with Federal agency violations of environmental laws like the Resource Conservation and Recovery Act which covers the cradle to grave handling of hazardous waste.

The National Association of Attorneys General supports this bill. They know they need this club to get the Department of Defense, the Department of Energy, and all the other federally run operations in their States to take compliance with hazardous waste law seriously.

Mr. Chairman, I know how cavalier the Federal agencies have been about environmental compliance.

There is a history of careless—even reckless—operation of DOE facilities in my State of Ohio.

We have three DOE nuclear facilities in Ohio—the Feed Materials Production Center near Fernald, the mound facility in Miamisburg and the Portsmouth uranium enrichment complex in Piketon.

They have all been the source of environmental problems.

Just look at the Fernald Plant. This uranium refinery facility, designed to produce uranium metal for defense production needs, has a 40-year history of pollution. There have been findings of ground water contamination on and off site. There have been releases of hazardous waste from drum storage areas and other problems.

DOE is just now beginning to address these pollution problems at Fernald. This is long overdue. And it is the direct result of the continuous prodding, pushing, and threatening by the State of Ohio, U.S. EPA, and other interested parties. Even so, I am still not certain that DOE is doing enough there or that it will not renege on its public pledge to thoroughly clean up the site.

Indeed, Fernald is at the very center of this entire debate on States imposing and collecting penalties for Federal violations of the Resource Conservation and Recovery Act.

In 1986, the Ohio attorney general took legal action against DOE for RCRA violations at Fernald. In 1988, the Ohio district court held that RCRA does waive sovereign immunity for penalties sought by a State administrative agency.

This decision, for the most part, was upheld by the Sixth Circuit Courts of Appeals.

DOE did not accept this decision and brought it to the Supreme Court. The Court will decide the matter later this year.

Mr. Chairman, I believe Congress ought to step in and tell DOE once and for all that it is not above Federal law. It cannot be allowed to ignore the harmful pollution problems it helped create.

The Mitchell bill simply reaffirms Congress' original intent that States can impose and collect fines and penalties from Federal agencies and Departments for violations committed under State and Federal hazardous waste law.

Mr. Chairman, the threat of punishment is a great motivator. Federal facilities in my State and across the Nation that are hotbeds of pollution will be greatly helped by this legislation.

Federal facilities that violate hazardous waste laws cannot and must not be above the law. They need to know that they will feel the sting of fines and penalties if they break the law just like any private party.

I urge adoption of this bill.

Mr. WARNER. Mr. President, I rise today in support of S. 596, as amended. This legislation should address the perceived inequities between Federal facilities and other facilities relative to compliance with environmental requirements.

I thank Senator MITCHELL, Senator CHAFEE, and other Members and staff of the Environment and Public Works Committee for their good faith negotiations, which have now resulted in needed amendments to the bill. These amendments address the major concerns of the administration with this bill.

Without these amendments, the Defense and Energy Departments would have been subjected to unfair results under this bill. These agencies have unique characteristics that require unique language. The amendments do ensure these agencies will be required to comply with the law while ensuring that enforcement of these laws is fair and realistic.

Getting to this point has taken about 2 years, including long hours of debate over issues and impacts. Hopefully, this investment will result in a better environment.

I thank the managers of the bill, the majority leader, and all that have contributed to this achievement.

I urge the conferees to support the Senate positions in the conference with the House.

Mr. WALLOP. Mr. President, today the Senate will very likely pass this bill and thereby endorse the concept of levying fines against an agency of the Federal Government for noncompliance with the Solid Waste Disposal Act. As I emphasized during the debate to proceed to S. 596, the thought of one Federal agency collecting fines and penalties from another Federal agency or of a State filling its coffers with Federal tax dollars disguised as fines against a Federal agency raises the question whether the proponents of this bill are really interested in environmental cleanup. In my view, the bill, will have the opposite effect. It will delay the entire process.

How can we claim to be serious about addressing environmental problems at Federal installations if we are willing, indeed eager it would appear, to divert funds for that purpose to EPA or the States for their unfettered, undirected use? Can it really be desirable to abrogate our responsibility to ensure that the agencies we authorize conduct their business lawfully?

What has happened to a country that prides itself on technological expertise and a certain modicum of practicality? What has happened to our resolve to deal with problems by committing our ingenuity to that end and managing to cope until we arrive at a solution? Through this bill, we are saying we cannot cope, and until we can, we will fine ourselves. How can a brilliant country choose this as a solution? If we have reduced ourselves to this kind of illogic, it is no wonder we are unable to compete with the Japanese and Germans in the marketplace. We waste our efforts and our resources—scientific and technological—on this silly kind of faddism that permits collection of fines from an agency thereby reducing the funds available to abate the very problem for which the fines were collected.

It seems to me that this bill is nothing more than a shirking of our duty to formulate a realistic schedule to bring these facilities into compliance with our environmental laws. Surely we have not become so impotent that we must throw this problem into the courts, a choice I find patently idiotic. It is beyond any degree of common sense to suggest that this course will force the environmental cleanup to proceed more rapidly or employ a more economic use of funds and resources.

As if that were not enough, the bill endorses a scheme that will result in the imposition of fines for storage of mixed waste even though there are no regulations governing mixed waste, and in many cases, no technology or capacity to treat such waste. If it is illegal to store it but there are no methods of disposing of it, what is one to do with it? The answer in this bill is, of course, levy fines against the agency possessing it. Even though an amendment that I co-sponsored would delay such ridiculous consequences, the fines and penalties even in these impossible situations would be permitted under the legislation after 1997, an arbitrary date bearing no relation whatever to projected technology or capacity development.

The fact that this seems to be a popular bill with many supporters makes

it no less absurd. This will not be the first time that this body has endorsed inefficiency as the standard by which other actions are taken or accepted the bizarre as the normal. I challenge the Members of the Senate to use their judgment and not their passion for a moment. I challenge them to slip out from under the bonds of green ratings that bring money for campaigns and other kinds of things and look rationally at this problem.

In this era of budget deficits, I do not understand how a country could do this to itself. I really do not understand how we can rationalize prodding agencies to litigate and fine each other; how we can encourage States to seek fines from the Federal coffers; how we can appropriate funds for one purpose and then put them into some other pocket and all the while complain about deficits.

This bill will be opening the Federal Treasury to perhaps billions of dollars in fines that will do nothing to promote the end of environmental cleanup. There are enormous budget considerations to this bill, the likes of which cannot be forecast, not by OMB, not by CBO, and not by diviners looking into crystal balls. How can we sit here uniformly, Republicans and Democrats alike, exhorting each other about the budget deficit and then toss into the hat something that could cost the Treasury billions for purposes over which we have no control?

It is these considerations that have shaped my decision on this bill. I cannot support passage of this legislation.

Mr. SIMPSON. Mr. President, the language on the mixed waste amendment—mixed waste contains both hazardous and radioactive waste—was worked out on the Senate floor last Thursday afternoon and evening.

It represents a compromise between divergent opinions about how to accomplish a goal we all seek—the safe, cost effective and expedient cleanup of Federal facilities.

This compromise will relieve DOE from paying fines and penalties under RCRA for mixed waste storage which is in violation with RCRA's storage prohibition. The reason is simple: There is inadequate treatment capacity.

The principal amendment would authorize, until December 31, 1993, the storage of mixed waste at Federal facilities when treatment technologies do not exist or sufficient treatment capacity is not available for mixed waste.

We have learned that disposal capacity is not yet available. Also, for a number or mixed waste streams, treatment technology is not even known at this time.

Taking these severe limitations into account, my colleagues agreed that after December 31, 1993, EPA may grant a continued exemption or a variance under RCRA for a particular type of mixed waste on a case-by-case basis.

A variance may be granted: First, if sufficient treatment capacity is not available due to circumstances beyond the control of the applicant; or second if technologies do not exist and cannot reasonably be developed due to circumstances beyond the control of the applicant. However, in one case will a variance be granted beyond July 1, 1997.

As my friends and colleagues Senator WALLOP and Senator DOMENICI raised a question on the floor last Thursday, "What happens then? Does one Federal agency start assessing fines and penalties against another Federal agency?" Why would we allow such fines and penalties when treatment technology does not exist?

I know the rationale for doing so—to force the Department of Energy to expeditiously clean up Federal facilities when faced with a deadline and the threat of fines.

If treatment technology and disposal capacity exists and can be deployed to meet the deadline, I have no objection to this. My concern is over the case where treatment and disposal technology will not be available by 1997. We may be dealing with this issue again then!

DOE has identified over 25 discreet waste streams for which no treatment technology has been identified or developed. Examples are: Radioactive and lead-contaminated debris; high-level radioactive waste, safety and control rods from nuclear reactors; and tritiated process equipment contaminated with mercury. Development of such treatment technology may take 10 years or more.

DOE has also identified approximately 250 discreet waste streams for which treatment capacity is inadequate. Examples are: Radioactive trichloromethane; rags and wipes contaminated with hazardous solvents and transuranic waste; and organic laboratory waste.

The amendment would also require EPA to issue, within 90 days of enactment, a list of mixed wastes for which treatment technologies do not exist or sufficient treatment capacity is not yet available.

This is a fine idea. We should know which mixed waste streams may be cleaned up for disposal, in other words, those which are not on EPA's list.

A very important part of the compromise language is section 5(4). This amendment would require EPA to amend standards for treating mixed waste in order to minimize risks to human health and the environment by December 31, 1992.

All Federal facilities should know what regulations will be in place as they progress with clean up of mixed waste. This language seems reasonable and, I trust my colleagues would agree, should certainly remain a part of the bill through the Conference Committee.

Senator DOMENICI'S amendment, which is section 11 of the bill, would require the chief financial officer of each affected agency to submit to Congress annual reports on the agency's activities regarding development of treatment technology and capacity for mixed waste, the expected cost of doing so, including a detailed description of the compliance activities to be accomplished during the period covered by the budget submission.

We should also know the cleanup cost. Senator DOMENICI'S language, section 11 of the bill, is directed to this budgetary concern. At a time when the Federal budget is stretched to the limit, we should judiciously allocate our funds. I strongly support the language in section 11 and will work to see it preserved through the Conference Committee.

During the negotiations, Senator MITCHELL'S proposed amendment contained language which did not appear on the final version. I was in favor of that draft language because it extended the on-site storage and the possibility of waivers, or variances, to all generators of mixed waste. Commercial generators should be treated the same as the Federal Government. After all, that was the premise of this bill—that Federal facilities should be treated the same as commercial sites under RCRA. For the sake of equity, I would have preferred that the provisions of this amendment be extended to commercial generators of mixed waste. Perhaps the conferees will also address this issue during the Conference Committee.

Finally I would like to thank my fine colleagues, Senator WALLOP and DOMENICI, for their help and guidance in fashioning what I have already described as a fair compromise. I also sincerely thank Senator MITCHELL for giving serious attention to those issues which we felt needed to be addressed. Although I am still concerned with the wisdom of requiring an absolute deadline of July 1, 1997 I do appreciate the Senator's attention to my concerns.

Mr. BROWN. Mr. President, I and my colleague from Colorado rise to engage in a colloquy with the distinguished managers of S. 596. Specifically, we seek clarification regarding the relationship between section 105, which deals with the storage of mixed waste, and section 106, which preserves existing agreements or consent orders.

Until December 31, 1993, section 105 makes available an exemption from the requirements of section 3004(j)(1) of the Solid Waste Disposal Act for mixed waste for which disposal technologies do not exist or sufficient treatment capacity is not yet available. Under section 105, further variances beyond December 31, 1993, may be available on a case-by-case basis. It is my understanding that section 105 only addresses the requirements of RCRA section 3004(j)(1) and does not exempt mixed waste from

any other requirements of Federal, State, or local law. Is my understanding correct?

Mr. CHAFEE. That is correct.

Mr. BAUCUS. Yes, section 105 only affects the requirements of RCRA section 3004(j)(1) and does not exempt mixed waste from any other requirements of Federal, State, or local law.

Mr. WIRTH. Section 106 states that the Federal Facility Compliance Act does not alter any existing agreement or consent order to which the Federal Government is a party regarding mixed waste. It is my understanding, therefore, that, if the Federal Government is a party to an agreement or consent order concerning mixed waste on the date of enactment, the provisions of that agreement or consent order would continue to govern and would not be affected by the Federal Facility Compliance Act. Is that correct?

Mr. CHAFEE. That is correct.

Mr. WIRTH. It is also my understanding that, if the Federal Government is the subject of a State order or permit that does not fall within the scope of an "existing agreement or consent order" as described in section 106, all provisions of that order except those related to section 3004(j)(1) of the Solid Waste Disposal Act would continue to govern and would not be affected by the Federal Facility Compliance Act. Is that also correct?

Mr. BAUCUS. That is correct.

Mr. BROWN. Therefore, the existing unilateral order of July 1991 and existing RCRA permits to which the Federal Government is subject at Rocky Flats, which deal with the management of mixed waste residues but do not address section 3004(j)(1), would not be affected by the Federal Facility Compliance Act. Is that correct?

Mr. BAUCUS. Yes, that is correct.

I want to note the involvement of the senior Senator from Colorado in development of the mixed-waste amendment. He provided important guidance regarding preservation of existing orders with Federal agencies, such as those at Rocky Flats. I appreciate his interest in this matter.

Mr. WIRTH. I want to thank the chairman for his willingness to work with me and other interested parties to assure that all existing agreements and orders are not affected by the mixed-waste amendment contained in section 105. Section 106 makes it clear that section 105 does not affect such agreements.

Mr. DOMENICI. Mr. President, once again I compliment the distinguished majority leader. He has been interested in this bill for a long time. I thank the managers of the bill for accepting a rather significant amendment that a number of us put together—the chairman of the Energy Committee and ranking member, myself, and others—that made the bill more possible and more logical and more doable. We do not want to proceed with a Federal cleanup where one department of the Government fines another department of the Government unless, indeed, what is being sought to be done cannot be done. And we found a very serious problem of mixed waste that clearly could not have been in a position of total cleanup by the dates in the bill. So an extended period of time was granted for an annual report stating accomplishments, expenditures, and technology are now required.

Frankly, I think that makes it much more feasible, much more logical, and clearly we will be moving with very large amounts of money, taxpayers' money, to do cleanup on Federal facilities, whether it be an Air Force base, an old nuclear facility, a place within some national laboratory, or the NIH where they have done research with radioactive items. All of those have to be cleaned up. But obviously we want them cleaned up on a schedule that is doable and achievable with current technology. Amendments accepted to that bill will permit it to happen in that manner.

I am hopeful when they go to conference they will not throw that part of the bill away because I am quite confident many of us will ask the President to look very seriously at it if that is the case.

I am not speaking for anyone other than myself, but it would concern me greatly.

The PRESIDING OFFICER. Under the previous order, S. 596 is considered read a third time. The Senate will now proceed to the consideration of H.R. 2194. All after enacting clause is stricken, the text of S. 596, as amended, is substituted in lieu thereof, and the bill is considered read a third time.

The question now occurs on H.R. 2194, as amended.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on H.R. 2194, as amended.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill, having been considered read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. PACKWOOD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—94

Adams	Exon	Mitchell
Akaka	Ford	Moynihan
Baucus	Fowler	Murkowski
Bentsen	Glenn	Nickles
Biden	Gore	Nunn
Bingaman	Gorton	Pell
Bond	Graham	Pressler
Boren	Gramm	Pryor
Bradley	Grassley	Reid
Breaux	Hatch	Riegle
Brown	Hatfield	Robb
Bryan	Heflin	Rockefeller
Bumpers	Hollings	Roth
Burdick	Inouye	Rudman
Burns	Jeffords	Sanford
Byrd	Johnston	Sarbanes
Chafee	Kassebaum	Sasser
Coats	Kasten	Seymour
Cochran	Kennedy	Shelby
Cohen	Kerry	Simon
Conrad	Kohl	Simpson
Craig	Lautenberg	Smith
Cranston	Leahy	Specter
D'Amato	Levin	Stevens
Danforth	Lieberman	Symms
Daschle	Lott	Thurmond
DeConcini	Lugar	Warner
Dixon	Mack	Wellstone
Dodd	McCain	Wirth
Dole	McConnell	Wofford
Domenici	Metzenbaum	
Durenberger	Mikulski	

NAYS—3

Garn	Helms	Wallop

NOT VOTING—3

Harkin	Kerrey	Packwood

So, the bill (H.R. 2194) as amended, was passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I move that the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer (Mr. KOHL) appointed Mr. BURDICK, Mr. BAUCUS, Mr. MOYNIHAN, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, Mr. SIMPSON, Mr. DURENBERGER, and Mr. WARNER conferees on the part of the Senate.

Mr. BAUCUS. Mr. President, I now ask unanimous consent that S. 596 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate

proceed to the consideration of House Joint Resolution 360, the continuing appropriations resolution; that the joint resolution be read a third time and passed and that the motion to reconsider be laid upon the table. I am advised it is cleared by the distinguished Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 360) was deemed read the third time and passed.

Mr. LEAHY. Mr. President, I am pleased that the Senate has now passed the continuing resolution extending foreign operations programs through March 30. I appreciate the action of the other body in basing this CFR on the standard formula of House-passed bill or fiscal 1991 act, whichever is lower. Foreign operations programs will also be governed by the same terms and conditions as contained in the fiscal 1991 act.

The Foreign Operations Subcommittee intends to move promptly next February to begin moving a Senate version of H.R. 2621, the House-passed version of the fiscal 1992 foreign operations appropriation. It is my intention to seek Senate action on that bill well before March 30 if at all possible.

Mr. President, I would also note that it is my understanding that, consistent with operations under the first continuing resolution for this fiscal year, programs such as the Administration of Justice Program that would otherwise have expired at the end of fiscal year 1991, can continue to operate during the period of this continuing resolution. Similarly, it is my understanding that funds made available under this continuing resolution for the International Finance Corporation and African Development fund could be obligated during that period.

Finally, Mr. President, I ask unanimous consent that a letter to me from Acting Secretary of State Lawrence S. Eagleburger regarding military assistance to El Salvador be included in the RECORD at the conclusion of my remarks. This letter states the intention of the Administration to abide in good faith by the provisions of the so-called Dodd-Leahy amendment to the fiscal 1991 Foreign Operations Appropriation Act respecting military assistance to El Salvador. Specifically, the administration undertakes to obligate no more than $3.5 million a month to El Salvador in military assistance during the period of the continuing resolution unless there are extraordinary circumstances, such as an FMLN offensive. If the Administration decides that it must exceed this rate, it has given Congress a commitment to prior consultation.

These administration assurances will maintain the status quo in military aid to El Salvador during the period of the continuing resolution, and will ensure that at least half, and actually considerably more than half, the $85 million expected to be appropriated for fiscal 1992 will remain obligated when the Senate takes up next year's foreign operations bill next February. This preserves the Senate's right to seek new conditions on military aid to El Salvador if that is the will of this body.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, DC, October 23, 1991.

Hon. PATRICK J. LEAHY,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations.

DEAR MR. CHAIRMAN: The Administration believes that the negotiations to end the war in El Salvador are at a critical point and are heading towards a successful conclusion. The cooperation of Congress over the last six months has helped create the conditions in which the peace process has advanced.

Continued cooperation is essential in the remaining crucial weeks to ensure that the parties resolve the last remaining issues and negotiate a U.N. supervised cease-fire. Should the Congress continue the current legislation governing military assistance to El Salvador in the next continuing resolution, the Administration would be bound to abide by both the spirit and the letter of those restrictions.

Specifically, the Administration would obligate FY 92 military assistance consistent with a withholding of 50% of that assistance, which would amount to a rate of $3.5 million per month. That money would be spent only as necessary to sustain current levels of support. The Administration would continue to press vigorously on the issue of human rights in general, and prosecutions in the Jesuit case in particular.

With regard to the provisions in the FY 91 legislation which allow the Administration to determine that the FMLN has violated certain conditions and thereby release the 50% of military aid withheld, the Administration would only make such a determination should there be a radical change in the military situation in El Salvador after the date of enactment, which we do not expect or foresee, and only after prior consultation with the Congress.

The Administration hopes and expects that a cease-fire will be negotiated and in place during the life of this continuing resolution. Once a cease-fire is in place, the Administration would consult with Congress about how military assistance could contribute to demobilization of combatants on both sides, national reconciliation, and national reconstruction to ensure a lasting and stable peace in El Salvador.

Sincerely,

LAWRENCE S. EAGLEBURGER,
Acting Secretary.

VOTES ON SENATE INVESTIGATIONS

Mr. DOLE. Mr. President, I just wanted to comment briefly on the votes on the investigative amendments, the resolution by the majority leader, which I would point out had the support of 31 Republican Senators, and the amendment of the distinguished Senator from California, Senator SEYMOUR, which had the support of zero Democrats.

I think the record should reflect that had we adopted the Seymour amendment, we would have completed the investigation of the Thomas matter within 30 days, and now I would not hazard a guess when that may happen.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have received reports from Senator DANFORTH, Senator KENNEDY, Senator DOLE, and others participating in the discussions on the civil rights bill, and at their request I am persuaded that with respect to the subject matter that they are discussing, it makes sense to permit them to continue those discussions in the hopes of reaching agreement rather than attempting to resolve them at this moment on the Senate floor. And so with respect to that aspect of the measure, those discussions will continue and there will not be an effort to resolve them on the Senate floor.

However, there are other very important and very controversial aspects of the bill which are not the subject of those discussions which I hope we can address during today's session. And so Senators should be aware that there may well be further amendments and votes this evening on this bill.

We have now been attempting to get to and on this bill for several days, and it is imperative that we make progress as the remainder of the work before the Senate continues to require our attention.

So there can be no misunderstanding by Senators, it is still my hope there will be important and substantive matters with respect to the bill addressed this evening with a possibility of votes this evening and tomorrow to make such progress as we can.

At this moment, I understand we are not prepared to go forward because Senators involved are not immediately present and are discussing other matters. But I merely wanted to make that statement to apprise Senators of the current status of the bill and the prospects for this evening and tomorrow. Obviously, as every Senator knows, from past, mostly sad experience, no one can predict with certainty what will occur, but that possibility, that is, the possibility of further votes this evening and tomorrow, is very conceivable.

Mr. President, I thank my colleagues, and I yield the floor.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the pending business before the Senate?

The PRESIDING OFFICER. The bill S. 1745 will be the pending business when the clerk reports.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Will the Senator yield for a moment?

Mr. DOMENICI. I will be pleased to yield.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, to accommodate the interests of those concerned, I ask unanimous consent that there now be a period for morning business not to extend beyond the hour of 5:30 p.m., with Senators permitted to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLASS ACTION LAWSUITS

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the RECORD from the Wall Street Journal of Thursday, October 24, a column called "The Mouthpieces": "Class-Action Lawyers Brawl Big Fees in Milli Vanilli Fraud."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 24, 1991]

THE MOUTHPIECES: CLASS-ACTION LAWYERS BRAWL OVER BIG FEES IN MILLI VANILLI FRAUD—THEY LINE UP TEEN "VICTIMS" OF THE LIP-SYNCHING DUO; JUDGE NOTES "STRONG ODOR"—ROB AND FAB OR FAB AND TIDE?

(By Amy Stevens)

When Milli Vanilli was exposed as a lip-synching fraud, it was bad news for the pop-singing duo from Germany. But for America's class-action lawyers, it was a major business opportunity.

They found clients in their own law offices and contacted their friends with teenage children. Their clients included 16-year-old Jay Freedman, who exclaimed "Gee!" after his father suggested the lawsuit, and Jessica Pinks, a high-school cheerleader who didn't know she was a plaintiff until she read it in the newspaper. "You couldn't imagine the ridicule I got at school," she says.

Before long, at least 26 suits were filed, all seeking court approval to become class actions, in at least seven states. They sought damages from Arista Records, the Bertelsmann AG unit that distributed Milli Vanilli's "Girl You Know It's True" album. Mr. Freedman, Miss Pinks and thousands of other young fans will get, at best, a few dollars each from all the suits. It's doubtful that any of the plaintiffs spent more than $30 or so on Milli Vanilli merchandise—and virtually all of them had stopped listening to their record long before the lip-synching was revealed.

But the lawyers involved stand to make hundreds of thousands of dollars. And that has led to an ugly confrontation among them, prompting one judge to declare that he senses a "strong odor" from the conduct of some of the attorneys. "The whole legal pretense is that these cases arose from spontaneous consumer grievances," says Walter K. Olson, a senior fellow at the Manhattan Institute who has written a book on the proliferation of lawsuits. But in fact, he says, "the lawyers are doing what they accuse the record company of doing: Getting people to lip-synch for them."

William C. MacLeod, a former director of the Federal Trade Commission's Bureau of Consumer Protection, agrees "It's hard to imagine there's a crying consumer need for redress of injuries here," he says. "While all the Milli Vanillis are crowding the court dockets, cases involving very serious injuries or people driven near bankruptcy are sitting and waiting."

RICO VIOLATIONS?

Milli Vanilli was the stage name for two young performers, Robert "Rob" Pilatus and Fabrice "Fab" Morvan, who had come out of nowhere, released their hit album and won the 1990 Grammy Award for best new artist. Last year, when they were revealed to be lip-synching front men for a clever record producer, the revelation was greeted more with derision than outrage. The men were stripped of their Grammy. U.S. record sales weren't affected because the album had long since been off the charts anyway.

But the lawsuits flew, most alleging violations of a variety of state consumer statutes and contract laws and some charging that Rob and Fab were part of an enterprise that violated the federal Racketeer Influenced and Corrupt Organizations (RICO) Act.

The country's top class-action lawyers and law firms got involved, such as William S. Lerach of Milberg, Weiss, Specthrie, Bershad & Lerach of San Diego. Mr. Lerach's firm filed a Milli Vanilli suit in state court in San Diego, listing as co-counsel the nation's other leading class-action law firm, Greenfield & Chimicles of Hanover, Pa. That firm also filed a virtually identical suit in federal court in Los Angeles, later adding Mr. Lerach's firm and others. Both Milberg Weiss and Greenfield & Chimicles are probably best known for filing shareholder suits against companies involved in leveraged buy-outs and other deals.

David Stalder of Oakland, Calif, who's now 15, remembers being "pretty angry" when he heard about the lip-synching, since his mother had given him a Milli Vanilli cassette a year earlier. That night at dinner, his mother and her attorney boyfriend "suggested a lawsuit," David says in an interview. The following evening, two other lawyers family friends came over and drafted court papers that were filed in state court papers that were filed in state court in Alameda County, Calif., by three Bay Area-based law firms.

Albert Meyerhoff, the attorney boyfriend, says: "I remember telling David he had legal rights and could exercise them."

In the San Diego state court case, which has since been transferred to Los Angeles, all three of the original named plaintiffs have ties to the Lerach firm: Danielle Jeffrey is the 10-year-old daughter of a lawyer at the firm, Linda J. Starr is a former word-processing supervisor there, and Carla J. Freudenburg is a former law school classmate of another attorney there. The Starr and Freudenburg names also appear on the federal case, along with Leo Senay Jr., now the husband of one of the law firm's copy clerks, and Lisa Kelton, a former law school classmate of a Greenfield & Chimicles attorney.

Meanwhile, in Philadelphia, attorneys at another class-action law firm, Cohen, Shapiro, Polisher, Shiekman and Cohen, called two friends with teen-agers and asked them during the conversations if they had bought any Milli Vanilli recordings, " I said my son had the tape. Just one thing led to another where we ought to do something about it, see what we can do," Dennis Freedman, of Erdenheim, Pa., told Arista lawyers in a deposition. They asked whether Mr. Freedman talked to his son about the possibility of bringing the suit after his conversation with the lawyer.

"Yes," Mr. Freedman said.

"What did your son say?" Arista's attorneys asked.

"'Really? Gee!'" Mr. Freedman answered, adding that his son was "in agreement" when told that Milli Vanilli might be sued.

In most states, the rules governing attorneys bar direct solicitation of clients for particular suits unless the person solicited is a relative or an existing client. These rules apply to class actions as well as to individual suits, although once the class action is approved, additional potential plaintiffs must be notified of the existence of the class.

A lawyer at Cohen Shapiro says there was nothing wrong because the case came up innocently in the course of informal conversations among friends; in one case, the lawyers says, the youth, after being told about the case, asked if he could get involved.

Of the 49 named plaintiffs in the Milli Vanilli cases, at least 41 appear to have had pe-existing relationships to lawyers, most of whom worked at firms specializing in class-action cases. And many of the plaintiffs say they agreed to file suit at the suggestion of a lawyer.

The case of Miss Pinks, a 16-year-old from Port Clinton, Ohio, is one example. At a Christmas party in 1989, Miss Pinks won a gift certificate that she redeemed for a "Girl You Know It's True" cassette. Miss Pinks wasn't a big Milli Vanilli fan and the tape wasn't her favorite. "I didn't keep up with them," she says.

So how did her name wind up on a lawsuit? "It wasn't my idea at all," Miss Pinks says. She was out of town when a lawyer friend got in touch with her father and the two men agreed to file papers. Returning few days later, Miss Pinks says she was shocked to see here name in the Port Clinton News-Herald. "It was awful." Miss Pinks says, "I'd walk into a classroom and they'd have the cassette playing, and they'd laugh at me."

Her lawyer, John A. Peitrykowski of Toledo, says the attorney-client privilege prevents him from discussing the origins of the lawsuit.

DENIAL OF RECRUITMENT

Mr. Lerach of Milberg Weiss says that in the days after the Milli Vanilli fuss arose, "the phone rang off the hook with people wanting to sue." He denies that his firm stirred up litigation or recruited anyone. When asked why the original named plaintiffs in the case brought by his firm had some pre-existing association with it, he replies: "We could add another hundred names easily. But for what purpose? So that Arista could take their depositions? Because they paid $12 for a bogus CD? Please, excuse me!"

All of the Milli Vanilli cases were brought as class actions on a contingency-fee basis, which means that the named plaintiffs pay nothing up front to their lawyers, who then petition the court for their fees. If a judge approves a class action, all buyers of Milli Vanilli records and merchandise would be entitled to be included as plaintiffs. In re-

cent years, judges in consumer fraud class-action cases have allowed attorneys to recover as much as a third of an award.

There's one big problem for law firms involved in nationwide class-action cases. Say one suit is filed in California state court and another in Ohio. If the judge in Ohio certifies that case as a class-action first, then defendants can argue that the Ohio judgment binds everyone. Such a ruling would preclude recovery in the California case—and could mean the California lawyers make no money.

That's why plaintiffs' lawyers often cooperate with each other in class actions against large companies. When the decision is finally made, all of the lawyers may get a piece of the pie.

But four Chicago law firms involved in the Milli Vanilli case upset the usual arrangement. They negotiated separately with Arista for a proposed nationwide settlement, drafting terms that would provide partial rebates to consumers—and nothing to other attorneys.

Under the agreement, Milli Vanilli fans would be eligible for rebates of $3 for each compact disk, $2 for each cassette and $1 for each single. Concert-goers and buyers of Milli Vanilli merchandise could ask Arista to donate 5% of the purchase price to one of three charities in their names.

Arista estimates that if everyone participates, the settlement could cost it $20 million. That's about 10% of what some plaintiffs' attorneys estimate the group generated in total revenue. The four plaintiffs' attorneys would split $675,000.

THE "CYNIC" JUDGE

In July, Cook County Circuit Court Judge Thomas J. O'Brien held a hearing on the tentative settlement. Lawyers who would be shut out of fees if the agreement was approved showed up to protest. Nineteen attorneys jammed into the Chicago courtroom—so many that they couldn't all stand in front of the bench. Judge O'Brien asked some to sit in the gallery.

The lawyers who weren't party to the settlement asked that the deal be set aside in part because it didn't offer full refunds. Judge O'Brien, however, sensed other motives. "I'm a cynic with some justification," he said at the hearing, during which he declined to let the Lerach group and the other challengers intervene. "And in my opinion, what's involved here, undisguised or disguised, is a strong order of concern to control the case and insure attorneys' fees."

The excluded attorneys are angry. "The level of compensation [for the record buyers] is just inadequate to address the problem," says mark Rifkin, an attorney at Greenfield & Chimicles. "Some clients that I represent have said that they're embarrassed now to play the music. It was not a victimless prank."

Mr. Lerach vows he'll "fight forever" against the proposed settlement. He argues that Arista should be made to disgorge all Milli Vanilli proceeds, "even if they can't be distributed" to his clients. (If, as Mr. Lerach figures, Milli Vanilli made as much as $200 million, the lawyers' share could be many millions.)

That's the only way to deter future wrongdoers, he says. "At this point, I'm not motivated at all by fees, not at all." Mr. Lerach says. "I'm motivated by the fact that I think consumers have been run roughshod over. To have it turn out that this wildly successful group was just a sham, just impostors, and have nothing done about it countenances deceit and the worst kind of business ethics."

SEVEN MILLION SOLD

Mr. Lerach accuses Arista of "Cherry-picking" to "find the weakest, hungriest, plaintiffs' lawyers, and present them with an opportunity to make a huge legal fee in return for entering into a nationwide settlement."

But Larry D. Drury, a Chicago lawyer who participated in the settlement talks, says, "If they were the ones with the exact same settlement approved, they'd be telling you how great it was. I don't think it's any great secret that they'd like to get compensated. But you don't get compensated if you don't win."

The Lerach group plans to object to the settlement in January, when it's scheduled to go back before Judge O'Brien for final approval.

Arista says the proposed settlement is fair. "When you consider that seven million copes of the album were sold in the U.S. you have to wonder how upset people really were," says Trish Heimers, a spokeswoman for Bertelsmann Music Group, Arista's New York-based parent, adding that the record company received "fewer than 100" letters of complaint.

Moreover, the record company says, Milli Vanilli fans got what they paid for, and, in most cases, didn't really care about the identity of the singers when they made the purchases. "These people didn't know Rob and Fab from Fab and Tide," says Irving Scher, a New York attorney for Arista.

Some of the plaintiffs, however, say they were genuinely upset when they heard about the lip-synching. "I felt they deceived me and my children, and others all over the world," says Carol Gaines, a cashier at a Wal-Mart store in Baton Rouge, La. "I didn't appreciate being lied to. We paid our money and thought they were performing." Mrs. Gaines says she was so angry that, a few days later, she picked a lawyer's number out of the phone book—she reached Syed A. Salat of Baton Rouge—to ask what she could do.

The record company's Miss Heimers won't say how much all the litigation has cost the firm, but estimates that 25 lawyers have spent 10,000 hours on the cases so far, an expenditure that legal experts say could already be close to $2 million.

SUIT OVER BEER

Marc Galanter, a professor at the University of Wisconsin at Madison School of Law, calls cases such as the Milli Vanilli suit "indicative of the degradation of the very good idea that was the class action." Some consumer class actions help combat fraud and effectively reimburse people who suffered genuine harm. But Prof. Galanter and others cite different kinds of cases, such as a suit filed—and later dismissed—in federal court last year by purchasers of Coors beer who claimed they were damaged because Adolf Coors & Co. had touted "Rocky Mountain spring water," when, they allege, the company was really using "ordinary water."

Mr. Lerach defends the merits of his Milli Vanilli cases by citing statutes that provide for punitive damages against companies that intentionally mislabel products, especially one of the most consumer-friendly laws, California's Consumers Legal Remedies Act. "The California legislature gave people the right to get their money back," says Mr. Lerach. "I didn't make that law."

But the man who did write the law, while serving as chief counsel to the state assembly's Judiciary Committee in 1971, has a different view. "I will say categorically that we didn't have this kind of case in mind," says James S. Reed. "We had in mind a lot more egregious kind of advertising, such as real misrepresentation of the quality and value of a product."

Adds Mr. Reed: "My kids played Milli Vanilli a few times. They think this whole thing's a joke."

Rob Pilatus and Fab Morvan themselves, meantime, have abandoned the Milli Vanilli name and are working in London on their next album, for which they plan to do their own singing. "These law suits hurt us very much. It took us a long time to get back up on our own feet," says Mr. Pilatus. Through a spokesman.

Mr. DOMENICI. Mr. President, it would be hilarious, if it was not so sad, that we have in this case attorneys, lawyers, who used to be held in high esteem, who used to be kind of part of the court system. They were supposed to behave as if they worked for the judge in their jurisdiction. Here we have them out, in my opinion, from what I read here, soliciting people who bought Milli Vanili so they could fill out an affidavit so they could bring class action suits so they could get into court, see who could stay in court and then sue for everyone that bought these records and make money. Make money for whom? For themselves, the attorneys.

Frankly, I cannot tell the attorneys of this country what they are doing to average people. And average people thought of them as distinguished members of the legal community in America. Average Americans are beginning to think of lawyers as hoods, as people who are out to make money and nothing else, who will take any kind of case if they can squeeze some money out of somebody, even if it was not due. That is the case here.

You understand, Mr. President, that Milli Vanilli was found to be a fraud. Many records and casettes were purchased. The story reveals that most people had even stopped listening to them by the time the fraud was determined. Most people did not care whatever they heard. They might have been defrauded, but it did not bother them.

I am not saying the fraud is correct, but why should a team of lawyers in six or seven jurisdictions about America, here, there, and elsewhere, go out and solicit people to sign the affidavits or give the statement—and the statement, the operative statement is obvious here when it says "The whole legal premise is that these cases arose"—imagine, Mr. President—"from spontaneous consumer grievances—consumer grievances" that spontaneously rose up and flooded the attorneys' offices with complaints. That is how they filed them. Not so.

I only hope that the lawyers, that the judges in these cases—if what is being reported is right, I only hope that they will handle these lawyers as if they were indeed responsible in the highest principles to the court that they filed the suit in. I hope that it is as said, that they will set an example for them. I am very pleased that the article notes that a judge is kind of concerned about this. I think that judge should be commended.

Frankly, I can tell you that the civil rights bill which is pending, which we have had innumerable meetings on—I, as one Senator, have been to maybe 20 or 30 myself. I think I finally understand the basic premises of what is going on in that new legislation and where I agree and where I do not. But an underlying premise of concern is we want to protect people's civil rights; but do we really want lawyers out there hounding people and then filing suits for them and asking for the moon when business people are going to have to pay the awards? There is a lot of concern about that.

How about small business America? How about medium-sized business? Are not they out there worried? They are not worried about violating anyone's civil rights. They are worried about a law that is hard to understand and a lawyer who will go after them for—if an amendment is agreed to here, for the sky is the limit—$23 million, $24 million.

Well, it seems to me it all stems from the very same thing we have here today in the cases I alluded to in the column I referred to. We have so many lawyers that they, frankly, are suing each other. The only new tort that is around is lawyers suing lawyers in malpractice, Mr. President. That kind of case is growing. Lawyers suing brother lawyer, which we have not seen for 10 years, for not handling a case right.

In fact, we wondered about malpractice insurance for doctors; malpractice insurance for lawyers is going through the roof. Lawyers are in some cases wondering where they are going to buy it. Frankly, I have great empathy for the good lawyers who cannot afford the insurance and are worried about it. But I tell you, nobody is going to do anything about it—I can guarantee the lawyers, so long as the lawyers are not doing something about themselves, their conduct, their propensity to invite lawsuits, and sue everyone as if it is kind of a very sophisticated game.

Mr. President, I thought I would share those two thoughts, the one that has to do with this one, the Milli Vanilli series of class action suits, and in my own way relate it with some concerns around about a new bill on civil rights that I want to see passed.

I think almost everyone here wants to see it passed, but there is some concern: How will the lawyers prey upon people and upon the businesses when these new rights are created? We understand some are already looking at the language and setting things in motion so they will know how to get the cases going and how to convince people that they have lawsuits. I hope it is not true. I hope lawyers, those who are good, decent lawyers, working at it, do not take this as an affront. But we heard from some people about what is going on in some seminars and some sessions where people are trying to work out how they are going to win these cases before we have the law passed.

With that, Mr. President, I am hopeful we will get a civil rights bill. I do not know if I can draft an amendment in time, but I think I am going to set about to draw an amendment to that civil rights bill that will make it illegal for lawyers to solicit civil rights cases; and that if they are found to solicit, that they will suffer a rather significant penalty. By solicit I would also mean advertise. But I would mean solicit also.

I do not know what others think about it, but I think it is a good idea. I am not quite sure I can get it written in the next 24 hours, but I will try.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

WISHING PRESIDENT BUSH WELL AS HE DEPARTS FOR THE MADRID TALKS

Mr. DOLE. Mr. President, there is a resolution at the desk, cosponsored by myself and the distinguished majority leader, Senator MITCHELL. I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 203) to wish President Bush well as he departs for the Madrid talks:

Whereas the Middle East peace talks will convene in Madrid, Spain, on October 30, 1991, under the sponsorship of the United States and the Soviet Union;

Whereas all the major parties in the Middle East will be represented at the talks;

Whereas such talks represent the best opportunity since Camp David to make real progress toward a comprehensive Middle East peace;

Whereas President Bush will lead the United States delegation to the talks; and

Whereas President Bush will also use the occasion of his visit to Madrid for bilateral discussions with Soviet President Gorbachev: Now, therefore, be it

Resolved, That the Senate of the United States—

(a) Commends President Bush and Secretary of State Baker for their outstanding leadership in organizing the Middle East peace talks.

(b) Wishes President Bush well as he departs for Madrid, both in the Middle East peace talks and in his discussions with President Gorbachev.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

BUSH DEPARTS FOR MADRID

Mr. DOLE. Mr. President, I am pleased to join the distinguished majority leader in offering this resolution. I asked to have it read, because it speaks for itself.

President Bush will depart shortly—I think it is on Monday—on one of the most important journeys of his presidency. For the first time in many years, there is a real prospect for real progress toward a comprehensive middle east peace.

President Bush's presence in Madrid reflects the fact that there are high stakes on the line, not only for the Middle East, but for America. With the sands of Desert Storm still settling, none of us needs any reminder of the importance of America's interests in that region.

There is no question that President Bush and Secretary Baker deserve the lion's share of the credit for making the Madrid talks a reality. Under the President's leadership, and with the tireless efforts of the Secretary of State, American diplomacy has been creative, determined and patient. Any other kind of diplomacy would have failed—as so many past attempts to get to this stage have failed.

This is not going to be an easy conference. It is only the beginning of a peace process that, without question, is going to evolve over a long time. This is likely to be a diplomatic and political marathon—not a swift sprint. There are likely to be many bumps in the road. But this is a very important beginning.

In his inaugural address, former President Kennedy quoted a Chinese proverb that is most appropriate here: "The longest journey begins with the first step." In Madrid, the Middle East takes a critical first step on the road to peace.

I would also note, as the resolution does, that President Bush will use the occasion of his Madrid visit for further talks with Soviet President Gorbachev. There will be many matters on their mutual agenda—including followup discussions on the President's recent and bold arms reduction proposal, the possibility of additional United States or other Western assistance to help the Soviets through this winter, and the control of nuclear weapons in the Soviet arsenal. So those talks, too, will be very important to America.

I hope and expect that the Congress will strongly back the President in both of these endeavors—the Middle East talks, and in our changing relationship with the Soviet Union and its constituent Republics. He deserves that backing, and he needs it.

So I hope all Senators will join the majority leader and me in voting for this resolution, in sending the President off with our unanimous best wishes, and in backing him in these important endeavors.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

So, the resolution (S. Res. 203) and its preamble were agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, may I inquire, are we in morning business?

The PRESIDING OFFICER. That is correct.

TRIBUTE TO FRED SCHWENGEL

Mr. SIMPSON. Mr. President, I rise to pay tribute to, and express my great personal admiration for, the outstanding work done by Fred Schwengel, who is the president and founder of our own Capitol Historical Society. Since coming to Washington as a U.S. Representative, serving as a Member of Congress during the Eisenhower administration, Fred has made his own personal mission to ensure that the storied history of our great "experiment in democracy" is preserved for future generations.

All of us see daily the activities of the Capitol Historical Society. His imprint upon it is very real, very genuine. This is a very extraordinary and lovely man.

The recent developments in the Soviet Union, during which the citizens of the U.S.S.R. asserted their democratic rights in defiance of military repression, have caused many Americans to feel, I think much closer to them than perhaps at any point since the 1917 Communist revolution. This has produced new opportunities for international cooperation, which Fred Schwengel has seized upon, and which he aims to turn to the service of historical scholarship.

Just yesterday, the Capitol Historical Society dispatched a letter to Soviet President Mikhail Gorhachev, inviting him to assist in an exchange of historical ideas. The society has offered to host a delegation of the U.S.S.R.'s historical scholars, so that they may better understand not only how we do business today in our National Legislature, but how it all came to be and came to pass in this way.

Although we have come, over the course of nearly a century, to view the Russians and the Soviets as adversaries, Fred Schwengel has pointed out that a deeper understanding of history demonstrates that our affinities with the Soviet people are perhaps more numerous than have been our sources of conflict. During our Civil War, when most European sympathy—and the real possibility of armed intervention, even—was with those who wished to see America divided, only the Soviet Union stood solidly in support of the continuance of our Federal union.

Our Nation's friendship with the Soviet Union continued into this century. One need only read the words of Boris Bakhmeteff, Ambassador to the United States—he was, of course, representing his country and, in particular, the Kerensky government which had deposed the czar—in a speech given before the Congress in 1917, to see how strong were "the ties that bound" our two nations earlier in the 20th century. In that speech, the Ambassador pledged Soviet continuance in the First World War, a promise which could not be upheld due to the collapse of the Kerensky government later that year. However, it was only one generation later that we found ourselves fighting side-by-side, alongside the Soviets yet again, in the Second World War.

And in this era of cooperation and international accord, it is well to remember that during that terrible conflict of World War II, the ally who was then more supportive than any other was, of course, the Soviet Union. And, of course, our greatest allies now—the Republic of Germany, United Republic of Germany, and Japan—were our adversaries. So it is indeed a curious growth of sensitivity and awareness of the cause of peace.

And so I want to commend Fred Schwengel. He has again presented us a very intriguing proposal.

With the recent turn of events in the Soviet Union, hopes are high that we are commencing a new era of cooperation with the peoples of the Soviet Union. The work of farsighted people like Fred Schwengel—one of ours, a deeply respected leader of the Capitol Historical Society, a friend to all of us—and if anyone ever really wants a tour of this remarkable building, and the House and the Senate, hook up with Fred Schwengel one bright morning and you will be absolutely thrilled.

So I want to congratulate him. He is here again working to put that cooperation on a sound historical footing.

As Goethe once wrote so aptly, "The best that history has to give us is the enthusiasm which it arouses." And in the president of our own Capitol Historical Society, that enthusiasm, boundless enthusiasm, remains very fervent and productive. I commend this man on this fine venture and I wish him every success, and I know that my colleagues would concur.

SEYMOUR AMENDMENT NO. 1271

Mr. SIMPSON. Mr. President, in my few remaining moments before the expiration of the order of morning business, I do want to speak in strong support of the amendment of Senator SEYMOUR of California.

Mr. President, of course that amendment was precise, clear, and brief and would have required the FBI to investigate the source of the leak of Prof. Anita Hill's allegations of sexual harassment. It had in its purpose to report back to the Senate within 30 days.

I congratulate Senator SEYMOUR for his very active participation. He is a newer Member of the Senate. It was very good to see his vigor and enthusiasm. And indeed, I thought he presented it very well, very cogently, very professionally. I want to thank him for that.

We have a serious issue here that we have to deal with in our legislative body, and that is this issue of the production of confidential information. No legislative body can function in that arena.

Senator SEYMOUR has acquitted himself beautifully in this process. He has politely, but firmly, insisted that his amendment receive due consideration by the Senate. He has properly requested that he have a right to have his amendment voted on in its original form—without damaging amendments in the second degree by those on the other side of the aisle. I appreciate that. And I appreciate the courtesy of the majority leader in arranging that up or down vote.

Senator SEYMOUR has shown an unflappable, strong insistence on his point of principle: that there should be an investigation without delay, and that investigation should be of limited time and expense. I believe that all Californians and all Americans are served very well by Senator SEYMOUR'S approach. We do want to know the answer, and we do not want millions of taxpayers dollars to be spent in pursuit of the answer.

I look forward to ensuring that the investigation of the leak proceeds swiftly and economically, and I know Senator SEYMOUR will be pursuing the same result, as well. I commend him on standing up for what he believes in with tact, perseverance and tenacity. In one of his first big battles in the U.S. Senate, Senator SEYMOUR has shown that he is more than capable of holding his own. He will be of great service to the State of California in his future years in this body.

I thank the Chair.

COMPLIMENTS TO THE MAJORITY LEADER

Mr. FORD. Mr. President, I want to compliment my, I guess I can use the word, counterpart on the Republican side for his comments as it related to Senator SEYMOUR.

But I also want to compliment the majority leader. I think the majority leader worked hard and effectively to work out a procedure whereby we would investigate the leaks and do it in a proper way.

I was very pleased, when the President made his speech today, that he, for all practical purposes, endorsed the procedure by which the majority leader was going to proceed.

About the only difference was that the majority leader wanted to cover all leaks, rather than just one specific instance. And, so, with the vote of, I believe 86 to 12, the overwhelming majority of the Senate approved of that procedure. So I want to compliment him for his patience, the patience of Job, that he exercises here. I did not want time to pass without saying that the majority leader not only had a good idea but the President of the United States endorsed it.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do also want to add to what was said by my friend, the Senator from Kentucky, my counterpart as whip on the Democratic side of the aisle, whom I greatly enjoy. I think we try to work very well together, very honestly together, very frankly together, and we do that.

Indeed, Senator MITCHELL did give Senator SEYMOUR every opportunity to have this vote. And it was presented to him without second-degree amendments, without filling the tree and all of the procedures that sometimes we confront. And I do thank him. And I think the President was generous not only in his references to what should be done and what was a great part of the package of Senator MITCHELL, but the President was also very supportive of what Senator BIDEN had done and was trying to do, in a very difficult situation. I think that shows the grace of the President in that situation. And of course we will have our partisan struggles; that is the way the system works.

But I do appreciate that, and now would move on to tougher issues, every single one of them tougher than the last. I will look forward to continuing to work with the senior Senator from Kentucky whom I have come to enjoy greatly.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the period for morning business be extended for another 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE PRODUCTION ACT AMENDMENTS

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 347.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist on its amendments to the bill (S. 347) entitled "An Act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendments, and modifications committed to conference: Mr. Carper, Mr. LaFalce, Ms. Oakar, Mr. Vento, Mr. Kanjorski, Mr. Ridge, Mr. Paxon, and Mr. Hancock.

As additional conferees from the Committee on Armed Services, for consideration of sections 111, 123–124, 136, and 201–203 of the Senate bill, and sections 111, 123, 134, and 202 of the House amendments, and modifications committed to conference: Mr. Aspin, Mr. Mavroules, Mr. Sisisky, Mr. Dickinson, and Mr. Bateman.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 163, 301, and 403–406 of the Senate bill, and section 163 of the House amendments, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mrs. Collins of Illinois, Mr. Lent, and Mr. Rinaldo.

As additional conferees from the Committee on Government Operations for consideration of sections 111 and 137, and titles II and V of the Senate bill, and sections 111, 135, 201, and 202 of the House amendments, and modifications committed to conference: Mr. Conyers, Mr. English, Mr. Wise, Mr. Horton, and Mr. Kyl.

As additional conferees from the Committee on the Judiciary, for consideration of section 138 of the Senate bill and modifications committed to conference: Mr. Brooks, Mr. Edwards of California, Mr. Conyers, Mr. Fish, and Mr. Moorhead.

As additional conferees from the Committee on Ways and Means, for consideration of sections 402–404 of the Senate bill, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Jenkins, Mr. Archer, and Mr. Crane.

Mr. FORD. Mr. President, I move that the Senate disagree to the House amendment, agree to the request of the House of Representatives, for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DIXON, Mr. GARN, and Mr. GRAMM conferees on the part of the Senate.

ACQUISITION AND MANAGEMENT OF THE MARY McLEOD BETHUNE COUNCIL HOUSE NATIONAL HISTORIC SITE

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar 127, H.R. 690, regarding the Mary McLeod Bethune Council House National Historic Site.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1272

(Purpose: To authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GRAHAM, proposes an amendment numbered 1272.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

Section 775 of the Higher Education Act of 1965 (20 U.S.C. 1132h–4) is amended—

(1) in subsection (c) by inserting "and maintenance" after "construction", and

(2) in subsection (d) by striking "$6,200,000" and inserting "$15,700,000".

Mr. GRAHAM. Mr. President, the Senate has just passed important legislation to bring the Mary McLeod Bethune Council House into the National Park System. Dr. Bethune's career was most remarkable, and her contributions to America, and to the advancement of African-Americans, can be seen throughout the country today.

That is why I am especially pleased that my colleagues have agreed unanimously to further the honor bestowed on Dr. Bethune by this bill. The amendment I have offered, and the Senate has accepted, authorizes the completion of the Mary McLeod Bethune Memorial Fine Arts Center at Bethune-Cookman College in Daytona Beach, FL.

Dr. Bethune founded Bethune-Cookman in 1904 and served as the college's first president, for 36 years. Today, Bethune-Cookman has approximately 4,000 students and plays an integral role in Florida's higher edu-

cation community. On a national scale, Dr. Oswald P. Bronson, Sr., president of Bethune-Cookman, is also the chairman of the presidents of the United Negro College Fund.

The establishment of a fine institution like Bethune-Cookman is an admirable lifetime achievement by any standard. As the 15th child of slave parents, Dr. Bethune's success is especially remarkable.

But her accomplishments span much wider than Bethune-Cookman. She founded the National Council of Negro Women, whose support for this legislation was instrumental to its passage in the Senate today.

Mary McLeod Bethune was a close friend and confidant of five U.S. Presidents, from Teddy Roosevelt to Harry S. Truman. She was also the head of the Negro Division of the National Youth Administration.

The fine arts center at Bethune-Cookman is appropriately named for Dr. Bethune. Once complete, the center will play an essential role in helping the college's students keep pace with advances in industry and technology to be competitive in Florida's economy.

I invite my colleagues to visit Bethune-Cookman and witness the fruits of this important investment. I am certain they will be pleased with their decision to support this legislation.

I look forward to final passage of H.R. 690 with the important Senate addition intact, and I thank my colleagues for their unanimous approval of this measure.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1272) was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

(H.R. 690 will be printed in the RECORD at a later date.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TOURISM POLICY AND EXPORT PROMOTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 223, S. 680, Tourism Policy and Export Promotion Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) 39 million international visitors spent approximately $52.8 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1990, with a United States travel trade balance of more than $5.2 billion;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels and, therefore, export expansion must remain a national priority.

STATISTICAL REPORT

SEC. 3. (a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 4. (a) ANALYSIS AND ESTIMATES.—For calendar year 1992 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1993 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 5. (a) FINDING.—The Congress finds that foreign tourists entering the United States are frequently faced with unnecessary delays at points of entry at the United States border.

(b) ACTION BY SECRETARY.—The Secretary of Commerce shall, in coordination with other Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the international processing standard of the International Civil Aviation Organization is met.

(c) REPORT.—The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress on efforts under this section to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

TOURISM TRADE DEVELOPMENT

SEC. 6. (a) ANNUAL PLAN.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15).

(b) TOURISM TRADE DEVELOPMENT EFFORTS.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) Generic advertising and other tourism trade development efforts carried out by the Secretary in any calendar year after calendar year 1993 shall be planned and implemented pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 2 years after the notice is published.

"(C) Within 1 year after a notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines

are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time that the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. Subject to the requirements of subsections (c) and (d), the Secretary may award grants to carry out proposals submitted under this subparagraph, and such grants shall be awarded no later than 2 years after the notice is published under subparagraph (B).

"(ii) The expenditures in a fiscal year to issue requests for proposals and award grants under clause (i) shall not exceed 10 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C).

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than 1 year after those efforts are completed, shall report to Congress on the results of the evaluation.

"(4) The Secretary may make adjustments to the deadlines and time limitations imposed in this subsection if necessary to ensure the effectiveness of tourism trade development efforts.".

(c) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking "and";

(B) by amending subparagraph (B) to read as follows:

"(B) at least two shall be representatives of the States who are knowledgeable of tourism promotion; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows except the period at the end.

(d) TECHNICAL AMENDMENTS.—(1) Section 201(6) of the International Travel Act of 1961 (22 U.S.C. 2122(6)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the period at the end.

(2) Section 202(a)(12) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(12)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the semicolon at the end.

(e) CONFORMING AMENDMENTS.—(1) Section 204 of the International Travel Act of 1961 (22 U.S.C. 2123b) is amended by striking "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 202(a)(5) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(5)) is amended to read as follows:

"(5) may award grants under subsection (e) to States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations;".

(3) Section 202(c) of the International Travel Act of 1961 (22 U.S.C. 2123(c)) is amended—

(A) in the first sentence by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "subsection (e)";

(B) in the second sentence by striking "paragraph" and inserting in lieu thereof "subsection"; and

(C) in the third sentence by striking "paragraph (5) of subsection (a) of this section"and inserting in lieu thereof "subsection (e)".

(4) Section 202(d) of the International Travel Act of 1961 (22 U.S.C. 2123(d)) is amended by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

COORDINATION

SEC. 7. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 8. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for

the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Secretary of Commerce may, on request and without requiring reimbursement, make available services and facilities of the Department for the use of the Foundation.

(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(j) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contribution, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(n) DEFINITIONS.—As used in this section, the term—

(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)), as amended by section 6(a) of this Act, is further amended by adding at the end the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

POLICY CLARIFICATIONS

SEC. 9. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201(2) of the International Travel Act of 1961 (22 U.S.C. 2122(2)) is amended by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;".

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123), as amended by section 6(b) of this Act, is further amended by adding at the end the following new subsection:

"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—Section 203 of the International Travel Act of 1961 (22 U.S.C. 2123a) is repealed.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (N) and (O); and

(B) by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) the Secretary of Agriculture or the individual designated by such Secretary from the Department of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of Customs;

"(M) the Attorney General or the individual designated by the Attorney General from the Immigration and Naturalization Service;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Each year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

ADMINISTRATION

SEC. 10. (a) DEPUTY UNDER SECRETARY.—Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by designating the remainder of the existing text as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development, who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development;

"(B) directing and managing field operations;

"(C) directing program evaluation research and industry statistical research;

"(D) developing an outreach program to those communities with underutilized tourism poten-

tial to assist them in the development of strategies for expansion of tourism trade;

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(e); and

"(F) performing such other functions as the Under Secretary may assign.".

(b) REGIONAL OFFICES.—Section 301(b) of the International Travel Act of 1961 (22 U.S.C. 2124(b)) is amended to read as follows:

"(b)(1) There shall be three regional offices of the United States Travel and Tourism Administration, based in and responsible for the following respective geographical areas:

"(A) Europe and Africa.

"(B) Asia and the Pacific region.

"(C) North America, South America, and Caribbean region.

"(2) Each such regional office shall monitor and direct the activities of—

"(A) the tourism trade development offices within the region as established under section 202(e); and

"(B) the country offices within the region that are responsible for mature markets.".

(c) LIMITATION ON CERTAIN EXPENDITURES.—Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124), as amended by section 7 of this Act, is further amended by adding at the end the following new subsection:

"(d) The expenditures in a fiscal year for administrative expenses, including salaries and other overhead expenses, shall not exceed 50 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows:

"SEC. 304. For the purpose of carrying out this Act, there is authorized to be appropriated an amount, not to exceed $21,000,000 for the fiscal year ending September 30, 1993, not to exceed $24,000,000 for the fiscal year ending September 30, 1994, and not to exceed $27,000,000 for the fiscal year ending September 30, 1995.".

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1993, 1994, and 1995 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.

TOURISM HEALTH STUDY

SEC. 12. (a) STUDY.—The Secretary of Commerce shall undertake to enter into arrangements with the Institute of Medicine of the National Academy of Sciences to conduct a study of the current knowledge of the health benefits of travel for domestic and international tourists.

(b) REPORT.—In entering into any arrangement with the Institute of Medicine for conducting the study described under subsection (a), the Secretary of Commerce shall request the Institute of Medicine to submit, not later than 18 months after the date of enactment of this Act, to the Secretary a report on the results of the study. The report, immediately upon its receipt, shall be transmitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

TRAVEL BY DISABLED PERSONS

SEC. 13. The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

Mr. ROCKEFELLER. Mr. President, today I rise to support the passage of S. 680, the Tourism Policy and Export Promotion Act of 1991.

In 1990, the U.S. travel and tourism industry posted a record $5.2 billion surplus. This follows a $1.3 billion surplus in 1989. This industry, in 1990, was our largest exporter, generating almost $53 billion in export revenues. Yet few realize the contribution it makes to our overall trade balance.

I know how important tourism is—I have seen what it can do for West Virginia. The tourism industry is the fourth largest employer in my State, providing almost 20,000 jobs, with a payroll of $189 million. Tourists spent $1.2 billion in West Virginia in 1989, over $3.2 million per day. West Virginia has experienced the tangible benefits of a healthy tourism industry.

If this industry is going to preserve and expand upon its recent gains, the U.S. Government must pursue a more vigorous and coordinated Federal tourism policy. This bill, S. 680, puts the U.S. Travel and Tourism Administration [USTTA] on that course. It provides the first authorization of the agency in 10 years. It recognizes the export potential of the tourism industry.

The major provisions of S. 680 will:

Require USTTA to concentrate its efforts on those markets that have the greatest potential for increasing tourism exports;

Put a career employee in charge of the tourism trade development program, a new Deputy Under Secretary for Tourism Trade Development;

Require the Secretary of Commerce to report annually on barriers to travel and tourism exports;

Direct the U.S. and Foreign Commercial Service to continue to assist USTTA in encouraging foreign tourists to visit the United States;

Require the Secretary, in consultation with other agencies, to take action to ensure that foreign visitors are not unnecessarily delayed when entering the United States;

Create a Rural Tourism Foundation to assist in the development and promotion of rural America as a travel destination for foreign visitors;

Direct the Secretary of Commerce to commission a study on the health benefits of tourism; and,

Direct the Secretary to report to Congress activities of the Department of Commerce and other Federal agencies to increase tourism and travel by disabled persons.

I am also offering a floor amendment, cosponsored by Senator BURNS, which modifies the bill to address several of the administration's concerns. The amendment strikes the restructuring of USTTA's foreign offices and the 50 percent limit on overhead that were contained in section 10 of S. 680, as reported by the Commerce Committee. In addition, at the request of USTTA, we have repealed the existing discretionary financial assistance program in the statute and replaced it with a more updated program, still, of course, completely discretionary. The amendment also makes some technical changes in the bill, as reported.

What the Senate is considering today is an export promotion bill requiring no negotiations or retaliation; instead, it is a bipartisan bill to prepare USTTA for the 21st century, to promote this vital industry which provides almost 6 million jobs and serviced 40 million foreign visitors last year.

Mr. HOLLINGS. Mr. President, I support wholeheartedly the passage of S. 680, the Tourism Policy and Export Promotion Act of 1991. S. 680, of which I am a cosponsor, recognizes the importance of tourism to the U.S. economy. This industry in 1990 employed almost 6 million workers, paid $43.5 billion in taxes, contributed a $5.2 billion surplus to our trade balance, and generates almost $53 billion in export earnings.

I see the benefits of tourism in my home State of South Carolina. Tourism is the second largest employer, with over 78,000 South Carolinians working in the industry. Over $4 billion was spent by tourists in my State in 1989, nearly $11.2 million a day. The tourism industry pays $228 million in State taxes in South Carolina and $75 million in local taxes.

Mr. President, this industry is our largest exporter, and yet our Federal tourism policy has been unchanged for 10 years. S. 680, introduced by Senator ROCKEFELLER, and favorably reported by the Commerce Committee without objection, provides a 3-year authorization for the U.S. Travel and Tourism Administration [USTTA]. We have not been able to reauthorize this agency for such a long time because our colleagues in the House have not been convinced of the merits of a Federal role in tourism promotion. In this regard, this year's bill, S. 680, contains some changes in USTTA's programs to address criticisms that have been leveled against the agency. It represents a compromise approach that the committee has adopted with valuable input from the industry. It is an excellent bill, and I compliment Senator ROCKEFELLER for his hard work to reach this consensus, as well as Senator BURNS, the ranking minority member on the Foreign Commerce and Tourism Subcommittee.

I have long been a strong supporter of USTTA and the tourism industry. I support this bill today because I believe it will benefit this industry and the country as a whole, and I urge my colleagues to join me in this support.

Mr. BURNS. Mr. President, it is with great pleasure that I can say we should pass S. 680, the Tourism Policy and Export Promotion Act of 1991.

I thank my colleague, Mr. ROCKEFELLER, for putting forth the energy and cooperation to create this long awaited and much needed policy legislation.

It has been my pleasure to be a part of this effort. As part of the rural tourism awareness movement, I have watched groups in the private business sector as well as those of us inside the beltway become more and more aware of not only the strength of tourism in this economy, but of the value of importance of making real America available to our friends and neighbors both at home and abroad.

Today, I would like to enter into the RECORD an article that was in yesterday's New York Times that tells the story as well as any. The fact that one of our country's leading newspapers has focused on this movement says a lot.

In addition, I would like to also enter into the RECORD a second article that was written in the Billings Gazette regarding the promise of the tourism business in rural communities.

Mr. President, tourism is growing by leaps and bounds in Montana and throughout the entire Pacific Northwest. Tourism is good exposure and it brings unexpected benefits. Many visits turn into permanent stays. They set up businesses and small firms that can operate anywhere and choose location because of lifestyle. Yes, tourism is a promising industry for not only States like Montana, but this Nation.

I would encourage any staff that happen to catch this in the RECORD to alert your Senator to this business and find out for yourself what this means to your home State. many are finding a need to diversity their incomes in rural areas today. And tourism is one business opportunity that communities are looking into developing. Not every community has the natural resources to develop, but those that do are finding that the future looks bright.

This is an opportunity that requires community, State, and regional cooperation. One lone business out there cannot attract visitors on a profitable basis. But a region can pool its technical, financial, and marketing resources to create an image that will attract travelers and tourists. That translates into profitable commerce, but only with well thought out, well defined planning.

This piece of legislation raises the awareness of just how important tourism can really be. Last year, in the State of Montana, inquiries to our Governor for travel in that State were up over 45 percent. How big a business is it to us? If we could get every visitor to stay 1 extra day, it would mean an income to our State of around $150 million. It is not a lot of money in some States, but it is lot in the State of Montana.

We have located in the State of Montana the headquarters of Kampgrounds of America. I wish to give them a little recognition, too. I am quite proud of that organization, because they not only played an integral part in the passage of this legislation; the Travel Industry Association of America and the President's Committee on the Employment of People with Disabilities have selected Kampgrounds of America to receive the award for innovative approaches to the employment of people with disabilities in a medium-sized employer category.

Sponsored by the Travel Industry Association of America, TIA, the awards for excellence were first done under a different name and a different criteria when TIA was observing its 10th anniversary.

In an effort to inform and train its nationwide chains of recreational vehicle park franchises of the employment possibilities, KOA researched the subject of competitive employment for people with disabilities. KOA executives realized that one of the real roadblocks to employment was not accepting the lack of understanding. They did not accept the lack of understanding and they received this award. I am very proud of them.

I wish to thank all staffs for the hours they put in toward the passage of this legislation which now goes to the House, and we hope for its passage over there.

Mr. President, I ask unanimous consent that two articles I mentioned be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 21, 1991]

TOURISTS FROM ABROAD DISCOVER MID-AMERICA

(By Edwin McDowell)

DODGE CITY, KS.—Aided by a weak dollar and bargain-basement air fares, visitors from overseas are flocking to the United States in numbers that have set records five years in a row. But what has startled travel experts is that more and more overseas visitors are turning up in states like Kansas and Nebraska, Kentucky and Utah.

Having seen the theme parks and the major cities, these tourists—especially repeat visitors, who last year made up 76 percent of all overseas visitors—are traveling to Indian reservations, staying at dude ranches, hiking through remote national parks and finding their way to places far off the beaten track.

Places like Dodge City, a windswept old frontier outpost that achieved international fame as the setting of "Gunsmoke," the longest-running Western in television history, hold special appeal. With its reconstructions of 1870's buildings where gunslingers like Wyatt Earp and Bat Masterson (and the fictional Marshal Matt Dillon) roamed, Dodge City has attracted almost 20,000 foreign visitors this year.

The Old West flavor is one of the main reasons Kansas leads all other states in the rate of growth in overseas tourism—up 213 percent last year from 1985—as against a national average of 60 percent in the same period.

"Can there by anybody around the world who doesn't know of Dodge City from television and the movies?" asked Bernie Ashfield of Adelaide, Australia, who traveled here from New York on a cross-country tour bus.

Ian Hay of Timaru, New Zealand, a fellow passenger added: "It's a very historic spot. Dodge City is just about as well-known down there as New York."

These days, almost no tourist attraction seems too remote for overseas visitors. Some of the recent interest in Iowa, for instance, stems from its legalization of gambling on Mississippi river boats, starting last spring.

But in Dyersville, Iowa, where a baseball field was created for the Kevin Costner movie "Field of Dreams," Jackie Ellingson of the Chamber of Commerce said, "Lots of Japanese tourists have flocked here to see the 'Field of Dreams.'"

Thousands of foreigners—inspired by reruns of the 1960's television adventure series "Route 66," about two men who traveled the highway in a Corvette, have been turning up in cities and towns along what is left of the 2,448-mile highway that linked Chicago and Los Angeles.

"Japanese, Germans, Norwegians, Swedes, Italians—the list just goes on and on," said Angel Delgadillo, a barber for 41 years in Seligman, Ariz., which sits along a 160-mile uninterrupted stretch of the famed highway. "The number of tour buses that get off Interstate 40 to come to Seligman is awesome. They say they're looking for America."

Overseas visitors are even showing up at the Tulsa home of Michael Wallis, the author of "Route 66: The Mother Road" (St. Martin's Press, 1990), a nostalgic look at the highway, wanting to know more about the highway that has gripped their imagination.

"I don't know how they know where I live," Mr. Wallis said, "but almost every week foreigners show up at the door—British, Germans, Japanese and French. Ten days ago a young couple from London, both of them in banking, showed up on their way from Chicago to L.A."

Although states like California and New York are still far ahead in absolute numbers of overseas visitors, smaller states are using aggressive promotional campaigns to make big gains. "Until about three and a half years ago we didn't even think of our state as being a potential destination for foreign tourists," said David K. Reynolds, administrator of Iowa's Division of Tourism. "But we've had a 175 percent increase in foreign visitors from 1988 to 1990. And a few weeks ago we had seven tour operators from Brazil and Argentina."

BEHIND BIG PERCENTAGE

The main reason for such high percentage growth, of course, is that most of those states had few overseas visitors until recent years, and even now lag light-years behind the states with the most overseas visitors. Kansas, for example, had only 119,000 overseas visitors last year and Utah only 267,000, compared with California's 4.8 million and New York's 4.5 million.

But the numbers are certain to change significantly, experts say, as foreigners continue to seek new experiences and as most states—realizing the economic impact of foreign tourism—pour money and effort into promoting themselves individually or through the many regional tourist associations that have cropped up.

For much is at stake: 38.8 million foreigners, including almost 17.3 million Canadians and 6.8 million Mexicans, spent $52.8 billion in the United States last year, including fares on American airlines, according to preliminary figures of the United States Travel and Tourism Administration, a unit of the Commerce Department. Of the foreign visitors, 14.8 million came from overseas and accounted for the biggest percentage growth of foreign visitors to mid-America.

All of the foreign visitors spent $5.2 billion more in the United States than did the 43.6 million Americans who traveled overseas last year.

One city that has done particularly well is Cody, Wyo., which had almost 20,000 visitors this summer from Taiwan alone. Cody, a city of about 7,500, is a gateway to Yellowstone National Park, and it has dude ranches, a rodeo every night from June through August and has museums devoted to Buffalo Bill, the Plains Indians, Western art and Winchester firearms.

But more than that, it has reached overseas to sell it attractions. About five years ago a small delegation from Cody flew to Taipei, to meet with travel operators. "We convinced them that was lots to do here," said Judith Blair, the marketing director of two hotels in Cody. Altogether, she said, Taiwanese, Britishers, Germans and other foreign tourists account for about 400 of the 1,200 tour buses that stay at the Blair Hotels.

Other regions have gained, too. Stan Fisher, the president of Allied Tours in New York, said his company has handled about 150,000 tourists from Europe this year, 10 times that of a decade ago, and his most popular tours include trips to New England to see the fall foliage. "We have so many people wanting to go to New England this month," Mr. Fisher said, "that we don't have room for them."

Similarly, Jerry DiPietro, the president of Tourco Inc. in Hyannis, Mass., said that the tour most popular with his European clients is 14-days in New England.

The most passionate overseas visitors, by most accounts, are those who are enamored of cowboys and Indians. "The Japanese and Germans who come here are absolutely bowled over by the Wild West," said Todd Kirshenbaum, deputy director of the Nebraska Tourism Office. "Anything with rodeo, cowboys and ranches, they just go nuts over."

That opinion was seconded by Greg Gilstrap, the director of travel and tourism for Kansas. "There's strong interest cowboys, Indians and the Old West," he said, "and Kansas is lucky enough to have a lot of the things that foreign visitors are looking for."

SKIING ATTRACTS JAPANESE

Last year, 3.1 million Japanese visited the United States, the most from any country overseas, with 2.2 million coming from Britain and 1.2 million from Germany. While most Japanese continue to travel in groups, many are now striking out on their own.

"We're doing a lot of ski business with Japanese tourists, and many want to stay with American families," said Nanette Groves Anderson of Western Leisure Inc., a tour operator in Salt Lake City.

Mitsuko Kennair of Hotard Coaches in New Orelans, said her Japanese clients are taking Mississippi cruises, visiting plantations, journeying to see alligators and even flying from Tokyo just to attend the jazz festival held each spring. "Almost all of them are repeat tourists, looking for different destinations," she said.

Jan Arai, co-owner of J.D. Cook tour company in Seattle, said many of her repeat Japanese clients are striking out on their own or with family members. "A lot are trying to test their mettle by renting R.V.'s" she said.

Arizona alone earned $56 million last year from Japanese tourists, many of whom came to visit the Grand Canyon, but others stayed at dude ranches or visited its many Indian reservations.

It will be a long time before most foreign visitors feel at home in the American heartland, according to John Sem, who heads the Tourism Center at the University of Minnesota. "There are language problems, and this culture tends to be insensitive about the needs of other cultures," he said. "And where do you exchange money in rural communities?"

But officials in both the private and public sector agree that tourism to the interior will continue experiencing record growth, now that the ice has been broken and now that cities and states are belatedly aware of its economic importance.

[From the Billings (MT) Gazette, Oct. 22, 1991]

TOURISM MAY DRAW EMPLOYERS TO STAY, ECONOMIST SAYS

KALISPELL.—Tourism, sometimes criticized as the source only of low-paying service jobs, may help bring more substantial employers and their payrolls to Montana, a First Interstate Bank economist said Monday.

William Conerly, vice president and economist at First Interstate Bank of Oregon, said Montana's economy has lurched along with that of the rest of the nation.

But tourism has been doing well in Montana and throughout the Pacific Northwest.

"It's going to continue," he predicted, because of word-of-mouth advertising and because baby boomers with families are inclined to tour the United States in their vans.

Tourism can bring unexpected benefits, said Conerly, pointing to the Bend, Ore., area, where "the well-heeled came to visit, and a number of them moved there with their businesses."

"Tourism is a good exposure," Conerly said. The businesses that move to places like Bend are small firms that can operate anywhere and choose a location because of the lifestyle, he said.

Retirees also are being attracted to such spots—younger and more-affluent people than average retirees, said Conerly, and their presence often results in professional service-sector jobs that pay far more than minimum wage.

The demand for wood products will increase in 1992, the economist said, but areas not allowed to harvest wood "will feel a real pinch."

Meanwhile, the aluminum industry is already being squeezed, under a "really weak" price. There are rumors of dumping of metals by Russian factories, Conerly said.

"We should see better aluminum prices by next year," he said, "but it may not be in time for some smelters." He noted one aluminum plant has already gone down in Oregon.

"No recession has ever lasted forever," Conerly said, but recovery from the recession of 1991 will be slow because of consumer nervousness, limited availability of credit, and the Federal Reserve constraining growth in the face of inflation pressures.

Conerly spoke at First Interstate's annual economic outlook program at Cavanaugh's.

AMENDMENT NO. 1273

(Purpose: To modify certain provisions of the bill)

Mr. FORD. Mr. President, I send a perfecting amendment of Senator ROCKEFELLER and Senator BURNS to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. ROCKEFELLER (for himself and Mr. BURNS), proposes an amendment numbered 1273.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all on page 29, line 21, through page 30, line 12, and insert in lieu thereof the following:

"(D)(i) At the same time that the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. Subject to the requirements of subsections (c) and (d), the Secretary is authorized to provide financial assistance to carry out proposals submitted under this subparagraph, and such assistance shall be provided no later than two years after the notice is published under subparagraph (B). In addition to financial assistance, the Secretary may provide technical assistance.

"(ii) The expenditures in a fiscal year to issue requests for proposals and provide financial assistance under clause (i) shall not exceed 10 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

On page 30, at the end of line 20, add the following new sentence: "The Secretary may reassign personnel from existing foreign offices to such tourism trade development offices.".

Strike all on page 32, line 13, through page 33, line 12, and insert in lieu thereof the following:

(e) CONFORMING AMENDMENTS.—(1) Section 202(a)(5) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(5)) is amended to read as follows:

"(5) may provide financial assistance under subsection (c) to States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations;".

(2) Section 202(c) of the International Travel Act of 1961 (22 U.S.C. 2123(c)) is amended—

(A) in the first sentence—

(i) by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "subsection (e)"; and

(ii) by striking "under this clause";

(B) in the second sentence by striking "paragraph" and inserting in lieu thereof "subsection"; and

(C) in the third sentence by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

(3) Section 202(d) of the International Travel Act of 1961 (22 U.S.C. 2123(d)) is amended by striking "paragraph (5) of subsection (a)

of this section" and inserting in lieu thereof "subsection (e)".

Strike all on page 45, and inserting in lieu thereof the following:

(d) REPEALS.—Sections 203 and 204 of the International Travel Act of 1961 (22 U.S.C. 2123a and 2123b) are repealed.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by striking subparagraph (E);

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) by redesignating subparagraphs (H) and (I) as subparagraphs (M) and (N); and

(D) by inserting immediately after subparagraph (F), as so redesignated, the following new subparagraphs:

"(G) the Secretary of Agriculture or the individual designated by such Secretary from the Department of Agriculture;

"(H) the Chairman of the Tennessee Valley Authority;

"(I) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(J) the Administrator of the Small Business Administration;

"(K) the Commissioner of Customs;

"(L) the Attorney General or the individual designated by the Attorney General from the Immigration and Naturalization Service;".

Strike all on page 47, line 19, through page 48, line 19; and on page 46, line 16, strike "(a) DEPUTY UNDER SECRETARY.—".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1273) was agreed to.

The PRESIDING OFFICER. Are there further amendments to the substitute? If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) 39 million international visitors spent approximately $52.8 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1990, with a United States travel trade balance of more than $5.2 billion;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels and, therefore, export expansion must remain a national priority.

STATISTICAL REPORT

SEC. 3. (a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 4. (a) ANALYSIS AND ESTIMATES.—For calendar year 1992 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1993 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 5. (a) FINDING.—The Congress finds that foreign tourists entering the United States are frequently faced with unnecessary delays at points of entry at the United States border.

(b) ACTION BY SECRETARY.—The Secretary of Commerce shall, in coordination with other Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the international processing standard of the International Civil Aviation Organization is met.

(c) REPORT.—The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress on efforts under this section to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

TOURISM TRADE DEVELOPMENT

SEC. 6. (a) ANNUAL PLAN.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15).

(b) TOURISM TRADE DEVELOPMENT EFFORTS.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) Generic advertising and other tourism trade development efforts carried out by the Secretary in any calendar year after calendar year 1993 shall be planned and implemented pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 2 years after the notice is published.

"(C) Within 1 year after a notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time that the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. Subject to the requirements of subsections (c) and (d), the Secretary is authorized to provide financial assistance to carry out proposals submitted under this subparagraph, and such assistance shall be provided no later than two years after the notice is published under subparagraph (B). In addition to financial assistance, the Secretary may provide technical assistance.

"(ii) The expenditures in a fiscal year to issue requests for proposals and provide financial assistance under clause (i) shall not exceed 10 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C). The Secretary may reassign personnel from existing foreign offices to such tourism trade development offices.

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than 1 year after those efforts are completed, shall report to Congress on the results of the evaluation.

"(4) The Secretary may make adjustments to the deadlines and time limitations imposed in this subsection if necessary to ensure the effectiveness of tourism trade development efforts.".

(c) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking "and";

(B) by amending subparagraph (B) to read as follows:

"(B) at least two shall be representatives of the States who are knowledgeable of tourism promotion; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows except the period at the end.

(d) TECHNICAL AMENDMENTS.—(1) Section 201(6) of the International Travel Act of 1961 (22 U.S.C. 2122(6)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the period at the end.

(2) Section 202(a)(12) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(12)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the semicolon at the end.

(e) CONFORMING AMENDMENTS.—(1) Section 202(A)(5) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(5)) is amended to read as follows:

"(5) May provide financial assistance under subsection (e) to States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations;".

(2) Section 202(c) of the International Travel Act of 1961 (22 U.S.C. 2123(c)) is amended—

(A) in the first sentence—

(i) by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "subsection (e)"; and

(ii) by striking "under this clause";

(B) in the second sentence by striking "paragraph" and inserting in lieu thereof "subsection"; and

(C) in the third sentence by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

(3) Section 202(d) of the International Travel Act of 1961 (22 U.S.C. 2123(d)) is amended by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

COORDINATION

SEC. 7. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 8. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of In-

dian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Secretary of Commerce may, on request and without requiring reimbursement, make available services and facilities of the Department for the use of the Foundation.

(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(j) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contribution, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(n) DEFINITIONS.—As used in this section, the term—

(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)), as amended by section 6(a) of this Act, is further amended by adding at the end the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

POLICY CLARIFICATIONS

SEC. 9. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201(2) of the International Travel Act of 1961 (22 U.S.C. 2122(2)) is amended by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;".

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123), as amended by section 6(b) of this Act, is further amended by adding at the end the following new subsection:

"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEALS.—Sections 203 and 204 of the International Travel Act of 1961 (22 U.S.C. 2123a and 2123b) are repealed.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by striking subparagraph (E);

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) by redesignating subparagraphs (H) and (I) as subparagraphs (M) and (N); and

(D) by inserting immediately after subparagraph (F), as so redesignated, the following new subparagraphs:

"(G) the Secretary of Agriculture or the individual designated by such Secretary from the Department of Agriculture;

"(H) the Chairman of the Tennessee Valley Authority;

"(I) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(J) the Administrator of the Small Business Administration;

"(K) the Commissioner of Customs;

"(L) the Attorney General or the individual designated by the Attorney General from the Immigration and Naturalization Service;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Each year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

ADMINISTRATION

SEC. 10. Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by designating the remainder of the existing text as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development, who shall be drawn from, and

serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development;

"(B) directing and managing field operations;

"(C) directing program evaluation research and industry statistical research;

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in the development of strategies for expansion of tourism trade;

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(e); and

"(F) performing such other functions as the Under Secretary may assign.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows:

"SEC. 304. For the purpose of carrying out this Act, there is authorized to be appropriated an amount, not to exceed $21,000,000 for the fiscal year ending September 30, 1993, not to exceed $24,000,000 for the fiscal year ending September 30, 1994, and not to exceed $27,000,000 for the fiscal year ending September 30, 1995.".

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1993, 1994, and 1995 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.

TOURISM HEALTH STUDY

SEC. 12. (a) STUDY.—The Secretary of Commerce shall undertake to enter into arrangements with the Institute of Medicine of the National Academy of Sciences to conduct a study of the current knowledge of the health benefits of travel for domestic and international tourists.

(b) REPORT.—In entering into any arrangement with the Institute of Medicine for conducting the study described under subsection (a), the Secretary of Commerce shall request the Institute of Medicine to submit, not later than 18 months after the date of enactment of this Act, to the Secretary a report on the results of the study. The report, immediately upon its receipt, shall be transmitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

TRAVEL BY DISABLED PERSONS

SEC. 13. The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION TO PRINT SENATE DOCUMENT

Mr. FORD. Mr. President, on May 23 through 27, 1991, the Canada-United States Interparliamentary Group conducted its 32d meeting, which was held in Alberta, Canada. The participation of the United States in this Interparliamentary Group is authorized by Public Law 86-42 (22 U.S.C. 276d-g). As chairman of the Senate delegation to this meeting of the Interparliamentary Group, Senator HERB KOHL has submitted to the Senate a report on this meeting. I ask unanimous consent that this report be printed as a Senate document and that 300 copies be printed for the use of the Secretary of the Senate and the Committee on Foreign Relations in addition to the usual number.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that morning business be extended until 6:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 1872 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SAMUEL A. DORSHOW

Mr. DURENBERGER. Mr. President, yesterday was a very special day for Samuel A. Dorshow, a distinguished Minnesotan who celebrated his 82d birthday. I am glad to be able to share with my colleagues the story of his courageous life, for which he has already been honored with three Silver Stars, three Purple Hearts, and a Bronze Star.

Sam is the son of Mr. and Mrs. Dave Dorshow and grew up on the west side of Saint Paul on East Isabel Street. He graduated from Humboldt High School and attended the University of Minnesota. The day after the Japanese bombed Pearl Harbor, Sam, age 33, joined the Army after the Marine Corps turned him down for being too old and over the hill. They would eat those words.

On June 6, 1944, Sam Dorshow, then S. Sgt. Dorshow of B Battery, 324th Field Artillery Battalion of the 83d Infantry Division—Big Red—landed on Omaha Beach, Normandy, France, in the first wave of Allied troops participating in the invasion of Europe.

Three days later he earned the first of his Silver Stars for heroism in occupying an exposed forward position under heavy small arms, mortar, and artillery fire so that he could direct Allied artillery to enemy positions.

His first Purple Heart was the result of a bullet would in the leg during hedge row battles near St. Lo. Sam was also in the midst of the battle in Remich, Luxembourg, where he singlehandedly knocked out an enemy machine gun nest permitting his unit to advance. Not a lot of marines have ever accomplished that. For this he was put in for his second Silver Star.

A few weeks later an enemy bullet grazed his head, leaving a scar which you can see today. He will also show you the second Purple Heart for his wound and the Croix de Guerre for bravery awarded him by the French Government.

During a lull in the battle near Huertgen Forest, Gen. George Patton personally awarded Sam a second lieutenant's battlefield commission acknowledging his leadership and courage in battle.

But his final hour of valor was experienced just 5 months before the war ended in Europe. On December 14, 1944, accompanied by the last 57 men in his battalion, Lt. Sam Dorshow occupied a building in Strass, Germany, as a forward observation post from which to call in allied artillery strikes. The building came under heavy enemy tank and artillery fire itself and soon collapsed with 5 Americans killed and many wounded, including Sam. He sustained injuries to his back and right side, but realized that the Germans were closing in and led his men out through enemy lines to safety. There were 11 walking wounded and 30 enemy prisoners captured along the way who arrived at the American first aid station 14 miles away, believe it or not.

Sam's military career was over at that time; they sent him to the rear to a hospital for treatment and recuperation. But by that time, he had been written up for an additional Silver Star, Purple Heart, and the Bronze Star.

Forty-three years later in 1987, the mayor of Saint Paul, George Latimer, declared June 7, 1987 as Sam Dorshow Day in recognition of the special con-

tributions made by Sam to freedom and the American way.

He has been honored by his Government, the Government of France, the Minnesota Department of the Jewish War Veteran, and now the U.S. Senate.

We all honor him as an shining example of someone who saw the need and did his job. We honor him for his personal courage, dedication to duty, and unselfish heroism under the ultimate odds.

The best example of his spirit is shown in his reaction to the wartime doctor's prognosis that he would never walk again with the wounds he had incurred. His response was "I had walked 14 miles through the Huertgen Forest with the same wounds and I sure as hell could learn to walk down Robert Street—in Saint Paul—again." And he did. He has discarded his cane and has again become a contributing member of society—fortunately, for us, in Minnesota. This is true courage, heroism, and dedication.

We wish Sam Dorshow many happy returns of the day and commend his unique contribution to America.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1870 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maryland.

CIVIL RIGHTS ACT OF 1991

Ms. MIKULSKI. Mr. President, 27 years ago this body passed a historic piece of legislation—the Civil Rights Act of 1964. That law reflected the feelings and beliefs of the majority of this Nation.

Among other ideals embodied in that legislation was the concept that individuals should not be discriminated against in either their place of work or anywhere else on the basis of race, color, religion, sex, or national origin.

For the first time, we had a law that gave meaning and substance to the idea of equal opportunity. The Civil Rights Act gave victims of discrimination a way to address the wrongs that they had suffered. The 1964 Civil Rights Act gave workers the ability to fight back against employment discrimination. It gave them the right to sue for back pay if they lost wages, the right to sue for reinstatement for wrongful dismissal, and they had the right to request a court order to keep an employer from continuing the practice of discrimination.

America and the Congress believe they did the right thing. Sadly, over the years, the Supreme Court has undone many aspects of the original bill. So now, in 1991, we must redo it. Make no mistake, Mr. President, it is needed now as much as it ever was. Discrimination on the basis of race, color, religion, sex, or national origin is outmoded, outdated, and should be outlawed. Discrimination has no place in this society, and Congress must send a clear message that in the United States of America, there is no room for either bigotry or bias.

In 1964, there was a glitch in the civil rights legislation, and this gives us an opportunity to fix it. For those who were discriminated against on the basis of race, the right to reinstatement and back pay supplemented the damages remedy available to them under a post-Civil War statute called section 1981. However, section 1981 did not cover gender discrimination. It does not give the victims of gender discrimination the same rights as victims of racial discrimination. Neither does the bill that we are considering today.

So, Mr. President, today we have a chance to make all of this right. We have the right to establish parity between victims of racial discrimination and gender discrimination, and it is time we did it. We are not talking about an either/or situation. We are talking about giving people who suffer from racial discrimination and gender discrimination the same treatment under the law. Gender discrimination is wrong and unjust. It should be punished as vigorously as racial discrimination. We cannot differentiate between discriminations. This bill must provide true and complete remedies for victims of all discrimination.

Last week, we all watched the testimony of both Anita Hill and Justice Clarence Thomas, and it was clear to everyone that these two people had suffered enormous indignities in their lives and both oftentimes had been the victim of discrimination. During the days of those hearings, my office was deluged with calls from women and fathers and husbands all telling me stories, searing, searing stories of gender discrimination and sexual harassment in the workplace.

Now, when I go to return those phone calls, what do I say? What do I say because of the legislation pending that wants to treat gender discrimination and sexual harassment as a separate and different category with less vigorous and strong remedies? What do I tell a dad who has worked very hard to make sure his daughter gets the same education as his son so that they will have the same opportunities in the workplace? Certainly, if fathers are willing to practice equal opportunity in their own families, we should be willing to practice equal opportunity in the U.S. Congress.

And, now, what do we tell those women who called me with one horror story after the other of being humiliated in the workplace, taunted, terrorized? Oh, well, this presents a problem; we are trying to work out a deal; we are trying to fix it. Fix it? Sure, let us fix it. Let us make sure nobody is discriminated against and, if there is discrimination, that we have the same remedies for all Americans.

We Democrats, with some very terrific Republicans, spent a difficult summer negotiating on this bill. I want to salute Senator DANFORTH from the other side of the aisle, a Republican, who is the leader in trying to fashion this compromise legislation. We Senators met in good faith. But you know what, Mr. President, every proposal made by the Democrats, discussed with these good-guy Republicans was met by the White House with either contempt or dismissal. They were interested in having an issue instead of a civil rights bill. And when we would come back to listen to what the White House said about every concession, about every compromise, it was nitpick, nitpick, nitpick.

What emerged during the summer of negotiations, and even now, is that we are not serious about righting the wrongs of discrimination in this society. There are those who undeniably and irrationally now propose ending jury trials for women because they think our legal system is out of control and they want to take it out on American women. Or they want to put a ceiling on what could be achieved in terms of damages in gender discrimination in the workplace. Mr. President, let us put a ceiling on unemployment, let us not put a ceiling on damages for discrimination against women.

Now, listen to this. They want to either end jury trials for gender discrimination or they want to put on those caps. Mr. President, can you imagine wanting to end jury trials for women for gender discrimination? Can you imagine actively proposing, as a legislative solution, taking away from women a constitutional right to a jury trial? It is bad enough that we are not included in the Constitution, but where we have implicitly in the Constitution the right to a jury trail, they want to take it away from us because they say the lawyers are too greedy. I do not know about lawyers being greedy, but I do know about women being discriminated against and the fact that women should have the right to a jury trial.

Mr. President, we are talking about people who have suffered pain and humiliation of gender discrimination or sexual harassment. I think the Constitution has been waived too long and

one too many times for American women. Mr. President, if a serial killer can have a right to a jury trial, if that guy in Wisconsin who kills people and does repugnant things to them can have a jury trial, certainly a woman who cannot get a job has a right to a jury trial if she is discriminated against. I do not think the United States of America should penalize women and take their constitutional rights away from them.

I hope everybody who is listening to C-SPAN, talk shows, this show, that show, the real show is right here and I want you to flood the Congress of the United States, say to the Congress of the United States: "Do not take jury trials away from us and do not put ceilings on damages." Take away jury trials—I have never been so insulted as a woman in my entire life. Talk about harassment, boy, that takes the cake.

We are also debating whether to put a cap on damages that could be awarded in cases of gender discrimination. The answer is no. What we give to one victim of discrimination, we should give to other victims of discrimination, otherwise what we have is an ultimate absurdity, Mr. President. We will have an antidiscrimination law that discriminates against women. How does that make it right? We will have an antidiscrimination law that discriminates against women. It is time to deal with reality in the U.S. Senate. It is time to deal with reality in the U.S. Congress. Women are no longer bit players in the field of employment. Today women make up 55 percent of the work force. By the year 2000, women will make up 60 percent of all the new entrants into the work force. We have to get the workplace ready for the 21st century. We are facing a new century and a new economy. We better have the laws to meet this new reality.

The handwriting is on the wall. The 21st century demands a country where discrimination is out of date and outlawed. We want changes in our law books, and we want changes in our checkbooks. Mr. President, we either believe in equality or we do not. If we believe in equality, then we should show it in our laws. We should show it by making the remedies for discrimination available to all Americans, male or female, and of all colors and all beliefs. We show it by saying that damages awarded to the victims of discrimination should be equal. A victim is a victim. We either believe discrimination is wrong or we do not. There are no degrees of wrong. One kind of wrong is no better or less deserving of a remedy than the other. Let us just do this: Let us just get out there and pass a civil rights bill that is clear and strong. Let us do what is right, a good civil rights bill.

And then, Mr. President, let us get on with rebuilding this economy, to make sure that we have prosperity, that we have jobs, that we have a future. Then we will be worthy of the support that our voters give us.

Mr. President, I might have more to say later, but right now I think my message is clear. I thank the Chair for giving me its attention, and my colleagues in the Senate.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DISTORTION OF AMERICAN HISTORY BY OUR INSTITUTIONS

Mr. STEVENS. Mr. President, more and more of us here in Washington have become increasingly aware of the politically correct efforts that abound on our Nation's campuses.

Unfortunately, these efforts are also emerging in our institutions, as exemplified by the Smithsonian Institution's exhibit, the "West as America." In that exhibit, history was distorted to depict American paintings of the West as something they were not. In that regard, I urge my colleagues to read an excellent editorial by James F. Cooper, which appeared in the summer 1991 edition of the American Arts Quarterly.

I ask unanimous consent that that article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SEASON IN HELL—THE INQUISITION OF POLITICAL CORRECTNESS

(By James F. Cooper)

Evoking Arthur Rimbaud's savage poem "Une Saison en Enfer" seems appropriate when contemplating the past art season and imminent prospects for further travesties. Last year's art season was launched by The New York Times with a full-page defense for political correctness. There followed twelve months of exhibitions that effectively buried any hope for a modernist renaissance.

From Washington's Hirshhorn Museum "Awards in the Visual Arts," to Cincinnati's Contemporary Art Center "Mapplethorpe: The Perfect Moment," to New York's Whitney Museum "Biennial," the apparent objective was to undermine artistic excellence—now regarded as a symbol of the economic, racial and cultural oppression of minorities by white heterosexual males. These new philistines are pleasant, urbane politically correct intellectuals who barely control their intolerance for the pluralist freedom and multiculturalism they profess to champion. Witness the brutal treatment accorded dissenters such as the Classical Realists of Minnesota and the writer Carol Iannone.

Quality is an idea whose time has gone, writes art critic Michael Brenson; "The quality issue has worked overwhelmingly to the detriment of artists who are not heterosexual, male and white." Aesthetic issues, he suggests, are now irrelevant to politically correct concerns of race, gender and sexual preference.

Art historian Robert Tine compares critics of political correctness to 16th-century Inquisitors. In his essay, "Artist Outwits Inquisition," Tine compares the heresy trial of the Venetian artist Paolo Veronese to U.S. Congressional hearings on NEA-funding. Tine claims that the "Inquisition was more understanding" than some members of Congress, an affront to congressmen who sincerely and vigorously support the arts, but question the quality of government funding.

It is not the Robert Mapplethorpes and Karen Finleys who suffer the persecutions—as Tine and Brenson suggest—but rather those artists who would create works of lasting spiritual and artistic beauty. They have been subjected to worse treatment than Veronese ever was from today's politically correct peer-panels, critics and curators, who control patronage and exhibition space.

On July 18, 1573, Veronese was charged with heresy by the Tribunal of the Holy Office for his painting of "The Last Supper," commissioned by the Church of San Giovanni e Paolo. The tribunal charged that Veronese had blasphemed Christ by surrounding him with "fools, drunkards and Germans" (a 16th-century synonym for Protestants). "Do you not know," the tribunal asked Veronese, "that in places infected with heresy it is customary for such pictures to mock, vituperate and scorn things of the Holy Church in order to teach bad doctrines to foolish and ignorant people?" The artist replied humbly, "I painted Christ with his Apostles, but there were some spaces to be filled, and I adorned them with figures of my own invention." He reminded them of the controversy over Michelangelo's frescos in the Sistine Chapel.

In spite of his spirited defense, Veronese was found guilty and ordered to remove a list of "offensive" items from the painting at his own expense within ninety days.

Within the ninety days allotted, Veronese appeared again before the tribunal, but his painting of "The Last Supper" remained unaltered. Christ and his disciples were still surrounded by the same objectionable throng of gawkers, party-goers and "Germans"—as well as troublesome dog, cat and parrot that particularly bothered some clerics. Veronese just changed the title of the painting from "The Last Supper, to "The Feast in the House of Levi."

Veronese retitled the painting in reference to Luke 6:29, the description of Levi's feast that included "publicans and sinners." Since the tribunal's objections had been purely "political" (religious), the Church dismissed all charges and immediately sought a new commission from Veronese: The artist's talent and the quality of "The Last Supper" had never been in question.

Advocates of political correctness fail to understand what the Church understood 400 years ago: politically-correct art must first be artistically correct. Changing titles will not satisfy critics who find politically correct work at best mediocre and at worst, ugly, pornographic, sacrilegious and destructive. An expert on Veronese, Tine reveals surprising insensitivity to artistic issues. He reports that the prior of San Giovanni suggested Veronese substitute for the dog at Christ's feet a figure of Mary Magdalene, but adds, "Veronese refused, although we do not know why." Tine does not consider for a moment that Veronese refused to alter his work because changes—moving some figures and

eliminating others—would destroy the aesthetic balance of a work of art.

Not even the Spanish Inquisition treated artists' concerns so cavalierly. Only through the prism of 20th-century relativism are matters of beauty, truth, and quality regarded as irrelevant. If political correctness becomes the determining factor in art (modernists having eliminated all other criteria), we can expect to see future tragedies like those suffered by Kazimir Malevich and others who believe in artistic freedom. One of the seminal figures of 20th-century art, Malevich was forced to crank out wretched socialist propaganda for Stalin's thought police. Other, less fortunate Soviet artists were killed or imprisoned. Emile Nolde's paintings were destroyed by the Nazis even though he endorsed their political (not artistic) agenda. De Chirico willingly exchanged artistic integrity for the patronage of Mussolini. The guillotine almost took the life of French Revolutionist-artist Jacques Louis David, who was politically correct enough for Danton but not for Robespierre.

What has been left unspoken but long suspected is now freely trumpeted by today's cultural police. It comes as no surprise, then, that recent retrospectives of Albert Bierstadt, Frederick Church, Worthington Whittredge, Frederic Remington, David Caspar Friedrich and Anthony Van Dyck are trashed as exemplars of a moribund culture, or that 19th-century masters featured in "The West as America" exhibition at the National Gallery are branded "apologists" for policies against the American Indian going back to Columbus. At the same time, politically-correct artists Sue Coe and Leon Golub are praised for documenting American "war crimes" committed against third-world peoples.

If concerned Americans truly want to have an impact on the culture, they must become sponsors instead of passive consumers. It is not enough to criticize; we must select experts who will sponsor art that relates to the American experience. Culture must be approached as responsibly as family, religion and the environment. Those who control the culture determine how Americans perceive themselves and how they set the course for the future.

A civilization that rejects not only beauty but also the moral and spiritual foundations of the nation, risks an internal crisis of monumental proportions. Free societies require virtuous citizens. To restore transcendent values, and courage, honor, integrity, self-discipline and humility, we must first embrace them through our culture. To those art administrators who have abandoned absolute values for trendy political causes, "It should be made clear that the arts belong not solely to those who receive its grants but to all the people of the United States" (President's Independent Commission on the Arts, 1990).

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, are we in morning business?

The PRESIDING OFFICER. The time for morning business has expired.

Mr. GORTON. Mr. President, I ask to be permitted to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1871 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 11:25 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 972. An act to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians:

S.J. Res. 160. Joint resolution designating the week beginning October 20,1991, as "World Population Awareness Week"; and

H.J. Res. 340. Joint resolution to designate October 19 through 27, 1991, as "National Red Ribbon Week for a Drug Free America."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its clerks, announced that the House has passed the bill (S. 347) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendments, and modifications committed to conference: Mr. CARPER, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. KANJORSKI, Mr. RIDGE, Mr. PAXON, and Mr. HANCOCK.

As additional conferees from the Committee on Armed Services, for consideration of sections 111, 123–124, 136, and 201–203 of the Senate bill, and sections 111, 123, 134, and 202 of the House amendments, and modifications committed to conference: Mr. ASPIN, Mr. MAVROULES, Mr. SISISKY, Mr. DICKINSON, and Mr. BATEMAN.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 163, 301, and 403–406 of the Senate bill, and section 163 of the House amendments, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. LENT, and Mr. RINALDO.

As additional conferees from the Committee on Government Operations for consideration of sections 111 and 137, and titles II and V of the Senate bill, and sections 111, 135, 201, and 202 of the House amendments, and modifications committed to conference: Mr. CONYERS, Mr. ENGLISH, Mr. WISE, Mr. HORTON, and Mr. KYL.

As additional conferees from the Committee on the Judiciary, for consideration of section 138 of the Senate bill, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. CONYERS, Mr. FISH, and Mr. MOORHEAD.

As additional conferees from the Committee on Ways and Means, for consideration of sections 402–404 of the Senate bill, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. ARCHER, and Mr. CRANE.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. DOWNEY, Mr. PEASE, Mr. ARCHER, Mr. VANDER JAGT, and Mr. CRANE.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1 through 3 of the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. SOLARZ, Mr. FALEOMAVAEGA, Mr. BROOMFIELD, and Mr. LEACH.

At 1:30 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 360. Joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes.

AT 1:30 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 360. Joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes.

At 7:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the joint resolution (S.J. Res. 192) designating October 30, 1991, as "Refugee Day," without amendment.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 20, 21, 22, 28, 29, 36, 43, 51, 53, 54, 56, 60, 62, 66, 70, 71, 81, 88, 96, 111, 113, 136, 138, 149, 151, 152, 153, 154, 170, 171, 174, 176, 184, 187, 197, and 199 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 1, 6, 9, 12, 16, 18, 19, 24, 26, 32, 33, 34, 37, 39, 40, 41, 52, 55, 63, 64, 65, 68, 69, 70, 86, 87, 89, 105, 108, 109, 124, 126, 127, 129, 131, 133, 137, 142, 144, 157, 163, 164, 165, 175, 179, 180, 185, 190, 191, 193, 195, 196, 201, 214, 218, 219, 222, 224, and 226 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate, and that the House insists upon its disagreement to the amendments of the Senate numbered 130 and 167 to the bill.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. MCCURDY, Mr. WILSON, Mrs. KENNELLY, Mr. GLICKMAN, Mr. MAVROULES, Mr. RICHARDSON, Mr. SOLARZ, Mr. DICKS, Mr. DELLUMS, Mr. BONIOR, Mr. SABO, Mr. OWENS of Utah, Mr. SHUSTER, Mr. COMBEST, Mr. BEREUTER, Mr. DORNAN of California, Mr. YOUNG of Florida, Mr. MARTIN, and Mr. GEKAS.

As additional conferees from the Committee on Armed Services, for consideration of matters within the jurisdiction of that committee under clause 1(c) of rule X: Mr. ASPIN, Mr. SKELTON, and Mr. DICKINSON.

As additional conferees from the Committee on Education and Labor, for consideration of title VII of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. WILLIAMS, Mr. HAYES of Illinois, Mr. GOODLING, and Mr. COLEMAN of Missouri.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of titles III (except section 301) and VI of the Senate amendment, and modifications committed to conference: Mr. CLAY, Mr. SIKORSKI, Mr. ACKERMAN, Mr. GILMAN, and Mr. MYERS of Indiana.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2074. A communication from the Secretary of the Commission of Fine Arts, transmitting, pursuant to law, a report on the system of internal accounting and administrative control of the Commission of Fine Arts in effect during the year ended September 30, 1991 and on the system of internal accounting and administrative control of the Commission of Fine Arts was in compliance with the standards prescribed by the Comptroller General; to the Committee on Governmental Affairs.

EC-2075. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-85 adopted by the Council on October 1, 1991; to the Committee on Governmental Affairs.

EC-2076. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Services for Children with Deaf-Blindness Program"; to the Committee on Labor and Human Resources.

EC-2077. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report to the Congress on the status and accomplishments of the runaway and homeless youth centers and on related activities; to the Committee on Labor and Human Resources.

EC-2078. A communication from the Secretary of Labor, transmitting, pursuant to law, a report to Congress which addresses the administration of the Employee Retirement Income Security Act (ERISA) during calendar year 1990; to the Committee on Labor and Human Resources.

EC-2079. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on enforcement activities for the period of October 1, 1988, through September 10, 1989 and sections on legislation, certificates permitting employment at wage rates below the minimum wage, youth employment standards, and employee coverage; to the Committee on Labor and Human Resources.

EC-2080. A communication from the Secretary of Labor, transmitting, pursuant to law, a report to Congress covering administration of the Black Lung Benefits Act (BLBA) for the period January 1 through December 31, 1990; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BOREN, from the Select Committee on Intelligence:

Robert M. Gates, of Virginia, to be Director of Central Intelligence. (Exec. Rept. No. 102-19).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 1865. A bill to amend the Internal Revenue Code of 1986 to provide for a reduction in individual income tax rates, a new individual retirement account and incremental investment tax credit; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. DODD, Mr. METZENBAUM, Mr. LEAHY, and Mr. DECONCINI):

S. 1866. A bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 1867. A bill to eliminate the retroactive effect on Federal retirement benefits of the repeal of the 3-year basis recovery rule by the Tax Reform Act of 1986; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. PRYOR, Mr. MURKOWSKI, Mr. GRASSLEY, and Mr. D'AMATO):

S. 1868. A bill to amend title 39, United States Code, to revise the procedures under which any change in the nature of postal services, which will generally affect service on a nationwide or substantially nationwide basis, may be implemented; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself and Mr. DECONCINI):

S. 1869. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. EXON (for himself and Mr. DASCHLE):

S. 1870. A bill to establish the Peace and Prosperity Commission to review United States economic policies toward the former Soviet Union; to the Committee on Foreign Relations.

By Mr. GORTON:

S. 1871. A bill to amend the Immigration and Nationality Act to entitle persons born on or before May 24, 1934 to acquire United States citizenship by certain persons through their United States citizen mothers; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. DURENBERGER, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. PRYOR, Mr. RIE-

GLE, Mr. BAUCUS, Mr. BREAUX, Mr. DASCHLE, Mr. MCCAIN, Mr. KASTEN, and Mr. COHEN):

S. 1872. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. SIMON, Mr. BIDEN, and Mr. KENNEDY):

S. 1873. A bill to modify the antitrust exemption applicable to the business of insurance; to the Committee on the Judiciary.

By Mr. KOHL:

S. 1874. A bill to establish a Federal Facilities Energy Efficiency Bank to improve energy efficiency in federally owned and leased facilities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. REID, Mr. PRYOR, Mr. DOMENICI, Mr. AKAKA, Mr. DOLE, Mr. BURNS, Mr. BRADLEY, Mr. PELL, Mr. LEVIN, Mr. DODD, Mr. RIEGLE, Mr. LEAHY, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. DANFORTH, Mr. GORE, Mr. SANFORD, Mr. ADAMS, Mr. MURKOWSKI, and Mr. JEFFORDS):

S.J. Res. 218. Joint resolution designating the calendar year 1993 as the "Year of American Craft: A Celebration of the Creative Work of the Hand"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 202. Resolution to appoint a special independent counsel to investigate, utilizing the Federal Bureau of Investigation, the General Accounting Office, and any other Government department or agency as may be appropriate, recent unauthorized disclosures of nonpublic confidential information; considered and agreed to.

By Mr. DOLE (for himself and Mr. MITCHELL):

S. Res. 203. Resolution to wish President Bush well as he departs for the Madrid talks; considered and agreed to.

By Mr. D'AMATO (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. GORE, Mr. GRASSLEY, Mr. PACKWOOD, Mr. ADAMS, Mr. MACK, Mr. DIXON, Mr. HELMS, Mr. SMITH, Mr. COHEN, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. MCCAIN, Mr. LAUTENBERG, and Mr. LIEBERMAN):

S. Res. 204. Resolution expressing the sense of the Senate that the United States should pursue discussions at the upcoming Middle East Peace Conference regarding the Syrian connection to terrorism; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. Res. 205. Resolution to amend the Standing Rules of the Senate by adding Rule XLIII, "Non-Disclosure Policy"; to the Committee on Rules and Administration.

By Mr. DECONCINI:

S. Res. 206. Resolution to amend the Standing Rules of the Senate to reverse the current presumption that sensitive matters that are the subject of Senate meetings or hearings will be open to the public unless a majority of the Members vote to hold a closed session; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1865. A bill to amend the Internal Revenue Code of 1986 to provide for a reduction in individual income tax rates, a new individual retirement account and an incremental investment tax credit; to the Committee on Finance.

DEFENSE TAX REBATE ACT

Mr. ROTH. Mr. President, among the characteristics shared by American perhaps none is so common as the desire for self-reliance. From the colonization of this land to the present, we have been motivated to build quality lives for our families. We have been motivated to provide greater opportunities for our children than we received ourselves and to apply discipline, education and skill toward increasing our economic opportunities. Through the years, this characteristic has been reinforced by the fact that in America hard-work was valuable and well-rewarded. Each generation was able to surpass the one before. And with our lives and good works we were able to build a monument to this marvelous political experiment that ideally opens the doors of progress for all people, regardless of race, creed, or color.

Some now say these days are over. The media dolefully reports that for the first time in history, our children cannot expect the same standard of living their parents enjoyed. The quality of self-reliance, our faith in hard work, have been threatened by a growing cynicism. And this seems ironical to me. It seems ironical, because never before in history have the American people stood to gain so much. Abroad, enemies have become friends. Foreign markets are opening with new opportunities every day. Technology is making our lives more productive. Medicine is making them longer, healthier and more dynamic. The revolution in information is providing us the opportunity to learn more, share more, and reach more eager minds than ever before.

This should be America's golden moment—an era our Nation has labored for more than two centuries to achieve. But there are some real challenges that confront us—challenges that threaten our economic security here at home and our competitiveness abroad. And, Mr. president, I cannot be emphatic enough when I say that America's ability to compete in the international economy is the single most significant issue that we must be concerned with as we prepare for the future. Fortunately, the challenges that threaten our competitive future can be surmounted. In fact, they are challenges that can actually be turned into strengths if Congress acts wisely and quickly with the right kinds of progrowth policies. These policies include getting Government off the back of the taxpayer, encouraging savings, helping our unemployed help themselves, and creating incentives for research, development, and work. With the right kind of progrowth package we will not only pull ourselves out of the recession, but restore the environment of self-reliance and generational progress I mentioned earlier.

It is my intention to introduce a series of pro-growth, procompetitiveness policies that will strengthen our Nation's ability to remain first among equals in the future global community. These policies will touch on areas where improvement is not only needed, but needed quickly: education, trade, and the environment among others. But today, I come to the floor with the first phase of what I believe is a very strong competitiveness package. Today, I am introducing four specific measures that are focused on lowering taxes, reducing Government—making it more efficient and beneficial to Government employees and the people it serves. Likewise, the bill I am introducing today is intended to increase savings and investment, and provide security for American families, especially those who have been hurt by this recession.

Mr. President, over a year ago, I came to this floor and introduced a plan to lower taxes—a plan that would stimulate the economy by giving the taxpayer a peace dividend. The bill was S. 2530, the 10/20 Roth defense rebate. In my mind, such a measure was only right. Throughout the cold war the taxpayer financed the peace by allowing us to maintain a strong and viable deterrent. With the break up of the Warsaw Pact and the blooming of democracy throughout Central and Eastern Europe, it was only right that the taxpayer be given back the portion of funds that was no longer needed. Many economists believed—and I agree with them—that reducing the income taxes for modest and middle income taxpayers at that time would have strengthened the economy immediately, avoided the recession, and kept America in the longest peacetime economic expansion in history.

Unfortunately, instead of receiving a tax cut for their years of supporting a strong military, what the American people got was a budget summit that resulted in the second largest tax increase in our Nation's history—a tax increase that exacerbated the recession and stimulated more congressional spending, resulting in a record-setting deficit. The budget agreement produced not bitter medicine, but poison that turned a cold into pneumonia. Of course, the cuts were made in the military, but, again, the money did not end up where it belonged—in the hands of

our families. Rather, it went to finance more social spending, as well as more special interest and pork-barrel projects. It fueled the big spenders' insatiable appetite—those Members of Congress who are already talking about another needed tax increase.

Mr. President, the big-spenders in Congress have already given the patient pneumonia. Now they want to make it fatal. While all other nations are awakening to see socialism as a disease, these big spenders refuse to acknowledge the fact that the best way to stimulate the economy is by getting out of the way and letting people engage in commerce with the assurance that they will be rewarded rather than taxed heavily for their endeavors. The only way to encourage consumers to spend, is to let them have more of their money to do it. The only way to encourage savers to save for investment capital for research, development and enterprise is to take the tax penalties off savings. The only way to provide for the long-term needs of those currently unemployed is to help employers grow and create new and permanent employment opportunities.

The time has come, Mr. President, to initiate real policies that will result in real growth. And building upon my legislation last year to offer tax cuts as a part of the peace dividend, I have built a four-point program that will not only break through the recession, but allow lasting, pro-growth gains for America.

The first leg of the plan is similar to what I called for last year, an average 9 percent annual decrease in military spending during the next 5 years, and a government honest enough to return these savings to their rightful owners: the American taxpayer. Fortunately, Mr. President, world events continue to improve our national security outlook. For the first time since the beginning of the cold war, countries all over the world banded together and successfully checked a heinous aggressor—Saddam Hussein. Moreover, the threat of Soviet adventurism continues to decline most dramatically with the failure last August of an authoritarian coup in the Soviet Union. Reducing the size of the Defense Department in line with a dramatically lower threat is nothing new; we did it after World War I, World War II, the Korean war, and the Vietnam war. When the fabric of communism in Eastern Europe and the Soviet Union began to unravel 2 years ago, Secretary Cheney and General Powell recognized the opportunity, and began reducing defense spending 2 percent per year, in constant dollars.

Now, the trend in world events has accelerated and created new opportunities. In addition, the Persian Gulf war has shown the value of streamlined defense command structures. It is now clear, Mr. President, that the defense budget can be reduced again, by further streamlining defense organization in line with Goldwater-Nichols reforms and by reducing investment in weapons and forces directed at the Soviet threat.

But defense is not the only place where we can and should cut Federal spending. We can save billions of dollars by making responsible cuts in domestic entitlements as well as in domestic discretionary spending. A detailed table of where these cuts can be made will be attached to my remarks. Additionally, we can save the taxpayers' money by instituting a program which responsibility down-sizes government. Without impacting any employee currently working in government, we can achieve a 10-percent reduction in Government within 5 years. This can be done by hiring three employees for every five that either quit or retire. As a result, we can reduce Government overhead and achieve productivity increases with a leaner Federal work force. At the same time, we should fully fund an incentive program for Federal employees who contribute to increased productivity and efficiency through their ideas and work. The communication and technological revolution can, and should, be used to consolidate and streamline Government services.

Each of these measures would allow us to put money back into the economy by giving it back to the people who create and sustain the economy, the American consumers. The money would be returned to the taxpayers through a phased-in tax rate reduction for all Americans, with one exception, and that is those who have incomes of $1 million or more. These tax rate reductions would be achieved by cutting the current tax rates of 15, 28, and 31 percent to 12, 25, and 28 percent. This represents a 3-percent reduction for all but the wealthiest Americans—those with annual tax incomes over $1 million. These taxpayers would continue at the current 31-percent rate.

Under my proposal, those Americans who are paying taxes at the rate of 15 percent would be guaranteed a 20-percent tax cut over the next 5 years. Those at the rate of 31-percent—the more affluent—would secure a 10-percent tax cut over the next 5 years.

Let me describe how these substantial rate reductions would affect America's tax-paying families. A family of four earning $35,000 would eventually save $792 in Federal income taxes, a 20-percent cut in the rate they pay today. A family of four earning $75,000 would save $1,992, a rate reduction of 14-percent. This is the way to bring back the economy. We have proven it with Roth-Kemp, now let us prove it again. Let us trust the taxpayers. They know how to spend their money a lot better than we do. Their thrift, their ventures, their consumption will go a whole lot farther toward improving our economy than Congress will using that same money to finance special interest and pork-barrel projects.

Mr. President, I am heartened to see that the nature of the debate concerning taxes is changing. The recent proposals by the chairman of the Senate Finance Committee and by the Speaker of the House, indicate that a consensus is finally developing between Republicans and Democrats. This movement, to usher in an economic recovery, proves that tax cuts are the future—a fundamental principle I have held since Jack Kemp and I introduced that tax cuts that resulted in the longest peacetime economic expansion in our Nation's history. The fact that both sides of the aisle are moving in the right direction is good. It is time that a consensus develop between both parties. It is time that we work together to reignite the economy. But let us do it right. Let us offer the American people real tax relief and regain control over Government at the same time. This is the first leg of my proposal.

The second leg of my plan includes passage of the Bentsen-Roth super IRA to encourage savings and self-reliance. Never is this more important than now—at a time when Americans are living longer in retirement than ever before—and at a time when our country desperately needs savings for investment. The estimated new savings in U.S. banks in the first year of Bentsen-Roth will be about $16 billion. This $16 billion in new savings equals investment—investment that equals jobs, home ownership, international competitiveness, and long-term growth. I believe the individual retirement account is so important to our country that I led the fight to implement it in 1981, and I led the long and eventually unsuccessful fight in 1986 to keep it as an integral part of America's need for capital formation and America's desire for self-reliance.

The Bensten-Roth super IRA will also help to make the tax cuts I have outlined. The rollover of deductible IRA's into the new kind of super IRA we're proposing—an IRA that will allow Americans to pay taxes up front and withdraw the savings tax free—will raise over $6 billion in the next 5 years. In other words, Mr. President, the IRA I have proposed will not only increase savings for investment, but it will offer a windfall to the Treasury that will allow our taxpayers to keep more of their hard-earned money in the future.

The third leg of my plan is to create incentives for Americans to work and invest. This includes eliminating the Social Security earnings test. Currently, senior Americans, ages 65 to 69, lose $1 of their Social Security checks for every $3 they earn in excess of $9,720. This, Mr. President, is counterproductive and it runs contrary to every principle of self-reliance that is so much a part of America. My pro-

posal would phase out the earnings test by 1997. To create incentives for investment, I propose an incremental investment tax credit, a new and efficient tax credit to provide incentives for investment in equipment that our private sector needs to modernize, manufacture and compete abroad. Likewise, it would be a boon for American small businesses—the most certain engine of our economy. This tax credit would be modeled after the highly successful formula that is known as the research and experimentation credit. It would provide a 10-percent credit on the amount of increased investment our businesses make in manufacturing and production equipment over a 4-year base amount.

The fourth, and final, leg is my plan to extend unemployment insurance to the workers and families who have lost their jobs during this recession. I believe it is critically important that extension of these benefits reflect America's real unemployment statistics. My proposal will do just that. It will reflect an accurate measure of our Nation's unemployed, and it will be workable given the limitations of the Federal budget. More importantly, however, it will get money in the hands of those who need it: the hardworking men and women who have suffered from the consequences of the largest tax increase in American history. I propose that such benefits be extended for 7 weeks. President Bush has made it clear that he can and will support an unemployment program that is paid for. Mr. President, this program is paid for.

Mr. President, the details of this growth package will be attached to this statement. What I have offered today is a broad overview. But this package is very detailed. For example, I even propose to repeal the boat-user fee. The strength of the package is that almost all of the proposals it offers have wide, bipartisan support. Both sides of the aisle agree we must begin to cut taxes. Both sides roundly support the super IRA. Both sides are firmly committed to helping the workers who have been out of work due to the current recession. And both sides are certainly willing to help older Americans who want to remain a viable part of our economy, as well as Americans who are working to keep their businesses strong and productive.

Mr. President, this program can work. It will work. We must quit trifling with the American people. The time has come for real measures that will result in real opportunities. The heavy hand of Government must be removed from American enterprise. Our Nation was made strong because we held to the axiom that the Government governs best which governs least. Let us go back to basics. Let us remember that in all things that we do on the floor of this Senate, people must always come before politics. That is the only way that we can assure that our future will be as bright and as promising as our past.

I ask unanimous consent that the text of the bill and the tables detailing this pro-growth package be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Defense Tax Rebate Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

SEC. 101. RATE REDUCTIONS.

(a) GENERAL RULE.—Subsections (a) through (e) of section 1 (relating to tax imposed on individuals) are amended to read as follows:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $34,000	12 percent of taxable income.
Over $34,000 but not over $82,150.	$4,080, plus 25 percent of the excess over $34,000.
Over $82,150 but not over $1,000,000.	$16,117.50, plus 28 percent of the excess over $82,150.
Over $1,000,000	$273,115.50, plus 31 percent of the excess over $1,000,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $27,300	12 percent of taxable income.
Over $27,300 but not over $70,450.	$3,276, plus 25 percent of the excess over $27,300.
Over $70,450 but not over $1,000,000.	$14,063.50, plus 28% of the excess over $70,450.
Over $1,000,000	$275,247.50, plus 31% of the excess over $1,000,000.

"(c) UNMARRIED INDIVIDUAL (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual) other than a surviving spouse as defined in section 2(a) or the head of a household as defined as in section 2(b)) who is not a married individual (as defined in section (7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $20,350	12% of taxable income.
Over $20,350 but not over $49,300.	$2,442, plus 25% of the excess over $20,350.
Over $49,300 but not over $1,000,000.	$9,679.50, plus 28% of the excess over $49,300.
Over $1,000,000	$275,875.50, plus 31% of the excess over $1,000,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,000	12% of taxable income.
Over $17,000 but not over $41,075.	$2,040, plus 25% of the excess over $17,000.
Over $41,075 but not over $1,000,000.	$8,058.75, plus 28% of the excess over $41,075.
Over $1,000,000	$276,557.75, plus 31% of the excess over $1,000,000.

"(e) ESTATE AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust, table under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	12% of taxable income.
Over $5,450 but not over $13,500.	$654, plus 25% of the excess over $5,450.
Over $13,500 but not over $1,000,000.	$2,666.50, plus 28% of the excess over $13,500.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991, except that the tax tables added by such amendments—

(1) shall be adjusted under section 1(f) of the Internal Revenue Code of 1986 (relating to inflation adjustments); and

(2) shall be adjusted under section 1(k) of such Code (relating to phase-in of tables) as added by section 102.

SEC. 102. PHASE-IN OF RATE REDUCTIONS.

(a) GENERAL RULE.—Section 1 is amended by adding at the end thereof the following new subsection:

"(k) TAX RATES FOR YEARS BEGINNING IN 1992 THROUGH 1996.—

"(1) IN GENERAL.—In the case of taxable years beginning in 1992 through 1996, each time the Secretary prescribes tables under subsection (f) for taxable years beginning in such calendar years, the Secretary shall—

"(A) adjust the 12, 25 and 28 percent rates of tax applicable to each rate bracket by substituting for each the percentage determined as if—

"(i) the substitute percentage in effect for the preceding calendar year were in effect for the portion of such taxable year preceding October 1 of the calendar year; and

"(ii) the substitute percentage for the calendar year were in effect for the portion of such taxable year on and after October 1 of the calendar year, and

"(B) adjust the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rates of tax under subparagraph (A).

"(2) SUBSTITUTE PERCENTAGES.—For purposes of paragraph (1), the substitute percentage shall be determined as follows:

"(A) In the case of the 12 percent rate of tax, the substitute percentage is:

"1992	14.5
1993	14
1994	13.5
1995	13
1996	12.5

"(B) In the case of the 25 percent rate of tax, the substitute percentage is:

"1992	27.5
1993	27
1994	26.5
1995	26
1996	25.5

"(C) In the case of the 28 percent rate of tax, the substitute percentage is:

"1992	30.5
1993	30
1994	29.5
1995	29
1996	28.5

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. WITHHOLDING TABLES.

Section 3402(a) is amended by adding at the end thereof the following new paragraph:

"(4) CHANGES MADE BY THE DEFENSE TAX REBATE ACT.—Notwithstanding the provisions of this subsection, the Secretary shall modify the tables and procedures under paragraph (1) to reflect the amendments made by sections 101 and 102 of the Defense Tax Rebate Act and such modifications shall take effect on October 1 of calendar years 1991 through 1995 as if there were a ½ percentage point reduction in the applicable rates of tax on each such date.".

TITLE II—RETIREMENT SAVINGS INCENTIVES

SUBTITLE A—RESTORATION OF IRA DEDUCTION

SEC. 201. RESTORATION OF IRA DEDUCTION.

(a) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1991."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 201, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If this subsection applies to any calendar year, then each applicable dollar amount for any taxable year beginning in the adjustment period for such calendar year shall be equal to the sum of—

"(A) such applicable dollar amount for taxable years beginning in such calendar year, plus

"(B) $500.

"(2) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any calendar year if the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for such calendar year,

is equal to or greater than $500.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2).

"(5) ADJUSTMENT PERIOD.—For purposes of this subsection, the term 'adjustment period' means, with respect to any calendar year to which this subsection applies, the period—

"(A) beginning on the 1st day of the calendar year following such calendar year, and

"(B) ending on the last day of the next calendar year to which this subsection applies."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)."

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)."

(3) Section 408(j) is amended by striking "$2,000."

SUBTITLE B—NONDEDUCTIBLE TAX-FREE IRAS

SEC. 211. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(C) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred from another special individual retirement account shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the account from which transferred.".

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section, the term qualified transfer' means a transfer to a special individual retirement account from another such account

or from an individual retirement plan but only if the requirements of subparagraphs (A) and (B) of section 408(d)(3) are met with respect to such transfer (determined after application of section 408(d)(3)(D)).''

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 301(c), is amended by adding at the end thereof the following new paragraph:

''(8) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

''(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

''(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A).''.

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: ''For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part 1 of Subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. Special individual retirement accounts.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE III—PENALTY-FREE DISTRIBUTIONS

SEC. 301. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph.

''(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

''(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

''(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year.''

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—Section 72(t)(3)(A) is amended by striking ''(B),''.

(C) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

''(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the child or grandchild of such individual.

''(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

''(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(1) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

''(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

''(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

''(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment of attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

''(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher educational expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking ''or'' at the end of subclause (III), by striking ''and'' at the end of subclause (IV) and inserting ''or'', and by inserting after subclause (IV) the following new subclause:

''(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and''.

(2) Section 403(b)(11) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', or by inserting after subparagraph (B) the following new subparagraph:

''(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act.

TITLE IV—INCREMENTAL INVESTMENT TAX CREDIT

SEC. 401. INVESTMENT CREDIT FOR NEW MANUFACTURING AND OTHER PRODUCTION EQUIPMENT.

(a) ALLOWANCE OF CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end thereof the following new paragraph:

''(4) the manufacturing and other productive equipment credit.''

(b) AMOUNT OF CREDIT.—Section 48 of such Code is amended by adding at the end thereof the following new subsection:

''(c) MANUFACTURING AND OTHER PRODUCTIVE EQUIPMENT CREDIT.—

''(1) IN GENERAL.—For purposes of section 46, the manufacturing and other productive equipment credit for any taxable year is an amount equal to 10 percent of the excess (if any) of—

''(A) the aggregate bases of qualified manufacturing and productive equipment properties placed in service during such taxable year, over

''(B) the base amount.

''(2) QUALIFIED MANUFACTURING AND PRODUCTIVE EQUIPMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified manufacturing and productive equipment property' means any property—

''(i) which is used as an integral part of the manufacturing or production of tangible personal property,

''(ii) which is tangible property to which section 168 applies,

''(iii) which is section 1245 property (as defined in section 1245(a)(3)), and

''(iv)(1) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ll) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

''(B) SPECIAL RULE FOR COMPUTER SOFTWARE.—In the case of any computer software which is used to control or monitor a manufacturing or production process and with respect to which depreciation (or amortization in lieu of depreciation) is allowable, such software shall be treated as qualified manufacturing and productive equipment property.

''(3) BASE AMOUNT.—For purposes of paragraph (1)(B)—

''(A) IN GENERAL.—The term 'base amount' means the product of—

''(i) the fixed-base percentage, and

''(ii) the average annual gross receipts of the taxpayer for the 4 taxable years preceding the taxable year for which the credit is being determined (hereafter in this subsection referred to as the 'credit year').

''(B) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than 50 percent of the amount determined under paragraph (1)(A).

''(C) FIXED-BASE PERCENTAGE.—

''(i) IN GENERAL.—The fixed-base percentage is the percentage which the aggregate

amounts described in paragraph (1)(A) for taxable years beginning after December 31, 1986, and before January 1, 1992, is of the aggregate gross receipts of the taxpayer for such taxable years.

"(ii) ROUNDING.—The percentages determined under clause (i) shall be rounded to the nearest 1/100 of 1 percent.

"(D) OTHER RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 41(c) shall apply for purposes of this paragraph.

"(4) COORDINATION WITH OTHER CREDITS.—This subsection shall not apply to any poverty to which the energy credit or rehabilitation credit would apply unless the taxpayer elects to waive the application of such credits to such property.

"(5) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to rules of subsection (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection."

(c) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 49(a)(1)(C) of such Code is amended by inserting "or qualified manufacturing and productive equipment property" after "energy property".

(2) Subparagraph (E) of section 50(a)(2) of such Code is amended by inserting "or 48(c)(5)" before the period at the end thereof.

(3) Paragraph (5) of section 50(a) of such Code is amended by adding at the end thereof the following new subparagraph.

"(D) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualified manufacturing and productive equipment property which is 3-year property (within the meaning of section 168(e))—

"(i) the percentage set forth in clause (ii) of the table contained in paragraph (1)(B) shall be 66 percent,

"(ii) the percentage set forth in clause (iii) of such table shall be 33 percent, and

"(iii) clauses (iv) and (v) of such table shall not apply."

(4)(A) The section heading for section 48 of such Code is amended to read as follows:

"SEC. 48. OTHER CREDITS."

(B) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended striking the item relating to section 48 and inserting the following:

"Sec. 48. Other credits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) property acquired by the taxpayer after December 31, 1991, and

(2) property the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1991, but to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date.

TITLE V—REPEAL OF THE EARNINGS TEST

SEC. 501. LIBERALIZATION OF EARNINGS TEST OVER THE PERIOD 1992-1996 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Effective with respect to taxable years ending after 1991, subparagraph (D) of section 203(f)(8) of the Social Security Act is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(i) before the close of the taxable year involved shall be increased by $3,000 in each taxable year over the exempt amount for the previous taxable year, beginning with any taxable year ending after 1991 and before 1993.".

(b) CONFORMING AMENDMENT.—The second sentence of section 223(d)(4) of such Act is amended by striking out "which is applicable to individuals described in subparagraph (D) thereof" and inserting in lieu thereof "which would be applicable to individuals who have attained retirement age (as defined in section 216(i) without regard to any increase in such amount resulting from a law enacted in 1991".

SEC. 502. REPEAL OF EARNINGS TEST IN 1997 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Effective with respect to taxable years ending after 1996—

(1) clause (B) in the third sentence of section 203(f)(1) of the Social Security Act is amended by striking out "age seventy" and inserting in lieu thereof "retirement age (as defined in section 216))"; and (2) section 203(f)(3) of such Act is amended—

(A) by striking out "33½ percent" and all that follows through "other individual" and inserting in lieu thereof "50 percent of his earnings for such year in excess of the product of the application exempt amount as determined under paragraph (8)", and

(B) by striking out "age 70" and inserting in lieu thereof "retirement age (as defined in section 216(1))".

SEC. 503. CONFORMING AND RELATED AMENDMENTS.

Effective with respect to taxable years ending after 1996—

(1) section 203(c)(1) of the Social Security Act is amended by striking out "is under the age of seventy" and inserting in lieu thereof "is under retirement age (as defined in section 216(1))";

(2) the last sentence of subsection (c) of section 203 of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(3) paragraphs (1)(A) and (2) of section 203(d) of such Act are each amended by striking out "under the age of seventy" and inserting in lieu thereof "under retirement age (as defined in section 216(1))";

(4) section 203(f)(1) of such Act is amended by striking out clause (D) and inserting in lieu thereof the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or";

(5) subparagraph (D) of section 203(f)(5) of such Act is amended—

(A) by striking out "(D) in the case of" and all the follows down through "(ii) an individual" and inserting in lieu thereof the following:

"(D) An individual";

(B) by striking out "became entitled to such benefits"and all that follows and inserting in lieu thereof "became entitled to such benefits, there shall be excluded from gross income any such other income.", and

(C) by shifting such subparagraph as so amended to the left to the extent necessary to align its left margin with that of subparagraphs (A) through (C) of such section;

(6) section 203(f)(8)(A) of such Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "the new exempt amount which is to be applicable";

(7) section 203(f)(8)(B) of such Act is amended—

(A) by striking out all that precedes clause (i) and inserting in lieu thereof the following:

"(B) The exempt amount which is applicable for each month of a particular taxable year shall be whichever of the following is the larger—";

(B) by striking out "corresponding" in clause (i); and

(C) by striking out "an exempt amount" in the matter following clause (ii) and inserting in lieu thereof "the exempt amount";

(8) section 203(f)(8)(D) of such Act (as amended by section 1(a) of this Act) is repealed;

(9) section 203(f)(9) of such Act is repealed;

(10) section 203(h)(1)(A) of such Act is amended by striking out "age 70" each place it appears and inserting in lieu thereof "retirement age (as defined in section 216(1))";

(11) section 203(j) of such Act is amended to read as follows:

"ATTAINMENT OF RETIREMENT AGE

"(j) for purposes of this section—

"(1) an individual shall be considered as having attained retirement age (as defined in section 216(1)) during the entire month in which he attains such age; and

"(2) the term 'retirement age (as defined in section 216(1))', with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.";

(12) section 202(w)(2)(B)(ii) of such Act is amended—

(A) by striking out "either"; and

(B) by striking out "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit"; and

(13) the second sentence of section 223(d)(4) of such Act (as amended by section 1(b) of this Act) is further amended by striking out "without regard to any increase in such amount resulting from a law enacted in 1991" and inserting in lieu thereof "but for the liberalization and repeal of the earnings test for such individuals in 1992".

SEC. 504. ACCELERATION OF 8 PERCENT DELAYED RETIREMENT CREDIT.

Effective with respect to taxable years ending after 1991, paragraph (6) of section 202(w) of the Social Security Act is amended—

(1) by striking out "2005" in subparagraph (C) and inserting in lieu thereof "1993"; and

(2) by striking out "2004" in subparagraph (D) and inserting in lieu thereof "1992".

TITLE VI—EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 601. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (hereinafter in this title referred to as the "Secretary"). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(2b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and are not paid or entitled to be paid any additional compensation under any State or Federal law); and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(2) for any week of unemployment which begins in the individual's period of eligibility (as defined in section 106(2)).

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependent's allowances) payable to such individual during such individual's benefit year under the State law for week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title, or with the regulations or operating instructions of the Secretary promulgated to carry out his title: and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an account is established under section 102 shall not exceed the amount established in such account for such individual.

SEC 602 EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 100 percent of the total amount of regular compensation (including dependent's allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which the individual most recently received regular compensation, or

(b) the applicable limit times the individual's average weekly benefit amount for the benefit year.

(2) APPLICABLE LIMIT.—For purposes of this section—

(A) IN GENERAL.—Except as provided in this paragraph, the applicable limit shall be determined under the following table:

In the case of weeks beginning during a:	The applicable limit is:
5-percent period	10
Other period	7

(B) APPLICABLE LIMIT NOT REDUCED.—An individual's applicable limit for any week shall in no event be less than the highest applicable limit in effect for any prior week for which emergency unemployment compensation was payable to the individual from the account involved.

(C) INCREASE IN APPLICABLE LIMIT.—If the applicable limit in effect for any week is higher than the applicable limit for any prior week, the applicable limit shall be the higher applicable limit, reduced (but not below zero) by the number of prior weeks for which emergency unemployment compensation was paid to the individual from the account involved.

(3) REDUCTION FOR EXTENDED BENEFITS.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970.

(4) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individuals' weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) DETERMINATION OF PERIODS.—

(1) IN GENERAL.—For purposes of this section, the terms "5-percent period" and "other period" mean, with respect to any State, the period which—

(A) begins with the third week after the first week for which the applicable trigger is on, and

(B) ends with the third week after the first week for which the applicable trigger is off.

(2) APPLICABLE TRIGGER.—In the case of a 5-percent period or other period, as the case may be, the applicable trigger is on for any week with respect to any such period if the adjusted rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls within the applicable range.

(3) APPLICABLE RANGE.—For purposes of this subsection, the applicable range is as follows:

In the case of a:	The applicable range is:
5-percent period	A rate equal to or exceeding 5 percent.
Other period	A rate less than 5 percent.

(4) SPECIAL RULES FOR DETERMINING PERIODS.—

(A) MINIMUM PERIOD.—Except as provided in subparagraph (B), if for any week beginning after October 5, 1991, a 5-percent period or other period, as the case may be, is triggered on with respect to such State, such period shall last for not less than 13 weeks.

(B) EXCEPTION IF APPLICABLE RANGE INCREASES.—If, but for subparagraph (A), another period with a higher applicable range would be in effect for a State, such other period shall be in effect without regard to subparagraph (A).

(5) NOTIFICATION BY SECRETARY.—When a determination has been made that a 5-percent period or other period is beginning or ending with respect to a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no emergency unemployment compensation shall be payable to any individual under this title for any week—

(A) beginning before the later of—

(i) October 6, 1991, or

(ii) the first week following the week in which an agreement under this title is entered into, or

(B) beginning after July 4, 1992.

(2) TRANSITION.—In the case of an individual who is receiving emergency unemployment compensation for a week which includes July 4, 1992, such compensation shall continue to be payable to such individual in accordance with subsection (b) for any week beginning in a period of consecutive weeks for each of which the individual meets the eligibility requirements of this title.

(3) REACHBACK PROVISIONS.—

(A) IN GENERAL.—IF—

(i) any individual exhausted such individual's rights to regular compensation (or extended compensation) under the State law after February 28, 1991, and before the first week following October 5, 1991 (or, if later, the week following the week in which the agreement under this title is entered into), and

(ii) a 5-percent period, as described in subsection (c), is in effect with respect to the State for the first week following October 5, 1991,

such individual shall be entitled to emergency unemployment compensation under this title in the same manner as if such individual's benefit year ended no earlier than the last day of such following week.

(B) LIMITATION OF BENEFITS.—In the case of an individual who has exhausted such individual's rights to both regular and extended compensation, any emergency unemployment compensation payable under subparagraph (A) shall be reduced in accordance with subsection (b)(3).

SEC. 603. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by an amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 604. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended employment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(c) ASSISTANCE TO STATES.—There are hereby authorized to be appropriated without fiscal year limitation, such funds as may be necessary for purposes of assisting states (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this title.

SEC. 605. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of an individual who has received amounts of emergency unemployment compensation under this title to which he was not entitled, the State shall require such individual to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individual received the payment of the emergency unemployment compensation to which he was not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—no repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 606. DEFINITIONS.

For purposes of this title:

(1) IN GENERAL.—The terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) ELIGIBILITY PERIOD.—An individual's eligibility period shall consist of the weeks in the individual's benefit year which begin in a 5-percent period or other period under this title and, if the individual's benefit year ends within any such period, any weeks thereafter which begin in any such period. In no event shall an individual's period of eligibility include any weeks after the 39th week after the end of the benefit year for which the individual exhausted his rights to regular compensation or extended compensation.

(3) ADJUSTED RATE OF INSURED UNEMPLOYMENT.—The adjusted rate of insured unemployment shall be determined in the same manner as the rate of insured unemployment is determined under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, except that the total number of individuals exhausting rights to regular compensation for the most recent three months for which data are available shall be included in such determination in the same manner as the average weekly number of individuals filing claims for regular compensation.

SEC. 607. PAYMENTS OF UNEMPLOYMENT COMPENSATION TO FORMER MEMBERS OF THE ARMED FORCES.

(a) REDUCTION IN LENGTH OF REQUIRED ACTIVE DUTY FOR DESERT STORM RESERVISTS.—Section 8521 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) In the case of a member of the armed forces who served on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm, paragraph (1) of subsection (a) shall be applied by substituting '90 days' for '180 days'.

"(2) For purposes of paragraph (1), the term 'Operation Desert Storm' has the meaning given the term in section 3(1) of Public Law 102-25 (105 Stat. 77).".

(b) LIMITATIONS ON UNEMPLOYMENT COMPENSATION.—Subsection (a)(1) of section 8521 of title 5, United States Code, is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) The individual was—

"(i) involuntarily separated from the armed forces, or

"(ii) separated from the armed forces after being retained on active duty pursuant to section 673C or 676 of title 10, United States Code.

"(B) This paragraph does not apply in the case of a dismissal, dishonorable discharge, or bad conduct discharge adjudged by a court-martial or a discharge under other than honorable conditions (as defined in regulations prescribed by the Secretary of the military department concerned).".

(c) CONFORMING AMENDMENT.—Subsection (c) of section 8521 of such title is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning on or after October 5, 1991.

TITLE VII-GUARANTEED STUDENT LOANS

SEC. 701. CREDIT CHECKS: COSIGNERS.

(a) IN GENERAL.—Section 427(a)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), hereafter in this title referred as "the Act", is amended to read as follows:

"(A) is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;".

(b) CONFORMING AMENDMENT.—Section 428(b)(1) of the Act is amended—

(1) in subparagraph (U), by striking "and" at the end thereof;

(2) in subparagraph (V), by striking the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(W) provides that prior to making a loan made, insured, or guaranteed under this part (other than a loan made in accordance with section 428C), a lender shall—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history.".

SEC. 702. BORROWER INFORMATION.

(a) IN GENERAL.—Section 427 of the Act is amended by adding at the end thereof the following new subsection:

"(d) BORROWER INFORMATION.—The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.".

(b) CONFORMING AMENDMENT.—Section 428 of the Act is amended—

(1) in subsection (a)(2)(A)—

(A) in clause (i)(I), by striking out "and" at the end thereof;

(B) in clause (ii), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.".

SEC. 703. ADDITIONAL BORROWER INFORMATION.

Section 485(b) of the Act is amended—

"(1) by striking the subsection heading and inserting "EXIT COUNSELING FOR BORROWERS; BORROWER INFORMATION.—"; and

(2) by adding at the end thereof the following: "Each eligible institution shall require that the borrower of a loan made under part B, part D, or part E submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B, the institution shall then submit this information to the holder of the loan.".

SEC. 704. CONFESSION OF JUDGMENT.

Section 428(b)(1) of the Act is further amended—

(1) in subparagraph (V), by striking "and" at the end thereof;

(2) in paragraph (W) by striking the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(X) provides that the lender shall obtain, as part of the note or written agreement evidencing the loan, the borrower's authorization for entry of judgment against the borrower in the event of default.".

SEC. 705. WAGE GARNISHMENT.

(a) IN GENERAL.—Part G of title IV of the Act is amended by inserting immediately following section 488 the following new section:

"WAGE GARNISHMENT REQUIREMENT

"SEC. 488A. (a) GARNISHMENT REQUIREMENTS.—Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this title that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B on which the guaranty agency received reimbursement from the Secretary under section 428(c), with the guaranty agency holding the loan, as appropriate, provided that—

"(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

"(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

"(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

"(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

"(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

"(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph; and

"(7) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorney's fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

"(b) HEARING REQUIREMENTS.—A hearing described in subsection (a)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2), and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(c) NOTICE REQUIREMENTS.—The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(d) DEFINITION.—For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual remaining after the deduction of any amounts required by law to be withheld.".

(b) CONFORMING AMENDMENTS.—

(1) Section 428E of the Act is repealed.

(2) Section 428(c)(6) of the Act is amended by striking subparagraph (D).

SEC. 706. DATA MATCHING.

Part G of title IV of the Act is further amended by inserting immediately following section 489 the following new section:

"DATA MATCHING

"SEC. 489A. (a)(1) The Secretary is authorized to obtain information from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States concerning the most recent address of an individual obligated on a loan held by the Secretary or a loan made in accordance with part B of this title held by a guaranty agency, or an individual owing a refund of an overpayment of a grant awarded under this title, and the name and address of such individual's employer, if the Secretary determines that such information is needed to enforce the loan or collect the overpayment.

"(2) The Secretary is authorized to provide the information described in paragraph (1) to a guaranty agency holding a loan made under part B of this title on which such individual is obligated.

"(b)(1) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality of the United States receives a request from the Secretary of information authorized under this section, such individual or his designee shall promptly cause a search to be made of the records of the agency to determine whether the information requested is contained in those records.

"(2)(A) If such information is found, the individual shall, in conformance with the provisions of the Privacy Act of 1974, as amended, immediately transmit such information to the Secretary, except that if disclosure of this information would contravene national policy or security interests of the United States, or the confidentiality of census data, the individual shall immediately so notify the Secretary and shall not transmit the information.

"(B) If no such information is found, the individual shall immediately so notify the Secretary.

"(3)(A) The reasonable costs incurred by any such agency of the United States in providing any such information to the Secretary shall be reimbursed by the Secretary, and retained by the agency.

"(B) Whenever such information is furnished to a guaranty agency, that agency shall be charged a fee to be used to reimburse the Secretary for the expense of providing such information."

TITLE VIII—ELECTROMAGNETIC SPECTRUM FUNCTION

SEC 801. SHORT TITLE.

This title may be cited as the "Emerging Telecommunications Technologies Act of 1991".

SEC. 802. FINDINGS.

The Congress finds that—

(1) spectrum is a valuable natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz (GHz) is becoming increasingly congested, and, as a result entities that develop innovative new spectrum-based services are finding it difficult to bring these services to the marketplace;

(4) scarcity of assignable frequencies can and will—

(A) impede the development and commercialization of new spectrum-based products and services;

(B) reduce the capacity and efficiency of the United States telecommunications system; and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) the United States Government presently lacks explicit authority to use excess radiocommunications capacity to satisfy non-United States Government requirements;

(6) more efficient use of the spectrum can provide the resources for increased economic returns;

(7) many commercial users derive significant economic benefits from their spectrum licenses, both through the income they earn from their use of the spectrum and the returns they realize upon transfer of their licenses to third parties; but under current procedures, the United States public does not sufficiently share in their benefits;

(8) many United States Government functions and responsibilities depend heavily on the use of the radio spectrum, involve unique applications, and are performed in the broad national and public interest;

(9) competitive bidding for spectrum can yield significant benefits for the United States economy by increasing the efficiency of spectrum allocations, assignment, and use; and for United States taxpayers by producing substantial revenues for the United States Treasury; and

(10) the Secretary, the President, and the Commission should be directed to take appropriate steps to foster the more efficient use of this valuable national resource, including the reallocation of a target amount of 200 megahertz (MHz) of spectrum from United States Government use under section 305 of the Communications Act to non-United States Government use pursuant to other provisions of the Communications Act and the implementation of competitive bidding procedures by the Commission for some new assignments of the spectrum.

SEC. 803. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs;

(2) the spectrum allocation actions necessary to accommodate those needs, including consideration of innovation and marketplace developments that may affect the relative efficiencies of different portions of the spectrum; and

(3) actions necessary to promote the efficient use of the spectrum, including proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and innovation in spectrum utilization including means of providing incentives for spectrum users to develop innovative services and technologies.

(b) REPORTS.—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President on the joint spectrum planning meetings conducted under subsection (a) and any recommendations for action developed in such meetings.

(c) OPEN PROCESS.—The Secretary and the Commission will conduct an open process under this section to ensure the full consideration and exchange of views among any interested entities, including all private, public, commercial, and governmental interests.

SEC. 804. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall prepare and submit to the President the reports required by subsection (d) to identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act;

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the next 15 years after enactment of this title for use under the provisions of the Communications Act for non-United States Government users;

(4) will not result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from the potential non-United States Government uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

(b) AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—The Secretary shall recommend as a goal for reallocation, for use by non-United States Government stations, bands of frequencies constituting a large amount of 200 MHz, that are located below 6 GHz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). If the Secretary identifies (as meeting such criteria) bands of frequencies totalling more than 200 MHz, the Secretary shall identify and recommend for reallocation those bands (totalling not less than 200 MHz) that are likely to have the greatest potential for non-United States Government uses under the Communications Act.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted toward the target 200 MHz of spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the amount targeted by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to United States Government stations under section 305 of the Communications Act are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by which United States Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures which the Commission and the Department of Commerce shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE UNITED STATES GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable;

(C) seek to avoid—

(i) serious degradation of United States Government services and operations;

(ii) excessive costs to the United States Government and civilian users of such Government services; and

(iii) identification of any bands for reallocation that are likely to be subject to substitution for the reasons specified in section 405(b)(2) (A) through (C); and

(D) exempt power marketing administrations and the Tennessee Valley Authority from any reallocation procedures.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Communications Act over the course of fifteen years after the enactment of this title;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for non-United States Government use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of spectrum during the fifteen year period.

(3) COSTS TO THE UNITED STATES GOVERNMENT.—In determining whether a frequency band meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of reaccommodating its services in order to make spectrum available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of the frequency band; and

(B) the benefits that could be obtained from reallocating such spectrum to non-United States Government users, including the value of such spectrum in promoting—

(i) delivery of improved service to the public;

(ii) the introduction of new services; and

(iii) the development of new communications technologies.

(4) NON-UNITED STATES GOVERNMENT USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing the band; and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATON, AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—

(A) Within 3 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a report which specifically identifies an initial 50 MHz of spectrum that are located below 3 GHz, to be made available for reallocation to

the Federal Communications Commission upon issuance of this report, and to be distributed by the Commission pursuant to competitive bidding procedures.

(B) The Department of Commerce shall make available to the Federal Communications Commission 50 MHz as identified in subparagraph (a) of electromagnetic spectrum for allocation of land-mobile or land-mobile-satellite services. Notwithstanding section 553 of the Administrative Procedure Act and title III of the Communications Act, the Federal Communications Commission shall allocate such spectrum and conduct competitive bidding procedures to complete the assignment of such spectrum in a manner which ensures that the proceeds from such bidding are received by the Federal Government no later than September 30, 1992. From such proceeds, Federal agencies displaced by this transfer of the electromagnetic spectrum to the Federal Communications Commission shall be reimbursed for reasonable costs directly attributable to such displacement. The Department of Commerce shall determine the amount of, and arrange for, such reimbursement. Amounts to agencies shall be available subject to appropriation Acts.

(C) Within 12 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a preliminary report to identify reallocable bands of frequencies meeting the criteria established by this section.

(D) Within 24 months after the date of enactment of this title, the Secretary shall prepare and submit to the President a final report which identifies the target 200 MHz for reallocation (which shall encompass the initial 50 MHz previously designated under subparagraph (A)).

(E) The President shall publish the reports required by this section in the Federal Register.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than 12 months after the enactment of this title, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(C);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(D); and

(ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receive public comment on the Secretary's preliminary and final reports under this subsection; and

(D) prepare and submit the report required by paragraph (4).

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 405(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The private sector adviser committee shall include—

(A) the Chairman of the Commission, and the Secretary, or their designated representatives, and two other representatives from two different United States Government agencies that are spectrum users, other than the Department of Commerce, as such agencies may be designated by the Secretary; and

(B) Persons who are representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial users;

(iii) other users of the electromagnetic spectrum; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum to be chosen by the Secretary.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 12 months after its formation, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the final report required by subsection (d)(1)(D), include a timetable for the effective dates by which the President shall, within 15 years after enactment of this title, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 406(a);

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) avoid the imposition of incremental costs on the United States Government directly attributable to the loss of the use of frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequencies.

SEC. 805. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 3 months after receipt of the Secretary's report under section 404(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency on the initial 50 MHz which that report recommends for immediate reallocation;

(2) with respect to other frequencies recommended for reallocation by the Secretary's report in section 404(d)(1)(D), by the effective dates recommended pursuant to section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a United States Government station of any frequency which that report recommends be reallocated or available for mixed use on such effective dates;

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in section 405(b)(2) exists, the President—

(A) may, within 1 month after receipt of the Secretary's report under section 404(d)(1)(A), and within 6 months after receipt of the Secretary's report under section 404(d)(1)(D), substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall publish in the Federal Register a statement of the reasons for taking the action described in subparagraph (A).

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national security interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important United States Governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the final report of the Secretary under section 404(d)(1)(D) unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective dates recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 406, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such plan, by providing notice to that effect in the Federal Register, including the reason that withdrawal at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE UNITED STATES GOVERNMENT; APPROPRIATIONS AUTHORIZED.—Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed not more than the incremental costs it incurs, in such amounts as provided in advance in appropriation Acts, that are directly attributable to the loss of the use of the frequency pursuant to this section. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(d) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this section.

SEC. 806. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) PLANS SUBMITTED.—

(1) With respect to the initial 50 MHz to be reallocated from United States Government to non-United States Government use under section 404(d)(1)(A), not later than 6 months after enactment of this title, the Commission shall complete a public notice and comment proceeding regarding the allocation of this spectrum and shall form a plan to assign such spectrum pursuant to competitive bid-

ding procedures, pursuant to section 408, during fiscal years 1994 through 1996.

(2) With respect to the remaining spectrum to be reallocated from United States Government to non-United States Government use under section 404(e), not later than 2 years after issuance of the report required by section 404(d)(1)(D), the Commission shall complete a public notice and comment proceeding; and the Commission shall, after consultation with the Secretary, prepare and submit to the President a plan for the distribution under the Communications Act of the frequency bands reallocated pursuant to the requirements of this title. Such plan shall—

(A) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(i) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (ii), over the course of a 10-year period beginning on the date of submission of such plan; and

(ii) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies; and

(C) not prevent the Commission from allocating bands of frequencies for specifics uses in future rulemaking proceedings.

(b) AMENDMENT TO THE COMMUNICATIONS ACT.—Section 303 of the Communications Act is amended by adding at the end thereof the following new subsection:

"(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, except that any such assignment shall expressly be made subject to the right of the President to reclaim such frequencies under the provisions of section 407 of the Emerging Telecommunications Technologies Act of 1991.".

SEC. 807. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(A) AUTHORITY OF PRESIDENT.—The President may reclaim allocated frequencies for reassignment to United States Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have not been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2).

(2) ASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have been assigned by the Commission, the President may reclaim them based on the grounds described in section 406(b)(2), except that the notification required by section 405(b)(1) shall include—

(A) a timetable to accommodate an orderly transition for licenses to obtain new frequencies and equipment necessary for their utilization; and

(B) an estimate of the cost of displacing the licensees.

(c) COSTS OF RECLAIMING FREQUENCIES.—Any non-United States Government licensee that is displaced from a frequency pursuant to this section shall be reimbursed the incremental costs it incurs that are directly attributable to the loss of the use of the frequency pursuant to this section.

(d) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

SEC. 808. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING AUTHORIZED.—Section 309 of the Communications Act is amended by adding the following new subsection:

"(j)(1)(A) The Commission shall use competitive bidding for awarding all initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, subject to the exclusions listed in paragraph (2).

"(B) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (C), the Commission shall grant a permit or license.

"(C) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (B) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first- and second-stage applications submitted under subparagraph (B).

"(D) Each participant in the competitive bidding process is subject to the schedule of changes contained in section 8 of this Act.

"(E) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses; (ii) establish minimum acceptable competitive bids, and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

"(F) The Commission, in designing the competitive bidding procedures under this subsection, shall study and include procedures—

"(i) to ensure bidding access for small and rural companies,

"(ii) if appropriate, to extend the holding period for winning bidders awarded permits or licenses, and

"(iii) to expand review and enforcement requirements to ensure that winning bidders continue to meet their obligations under this Act.

"(G) The Commission shall, within 6 months after enactment of the Emerging Telecommunications Technologies Act of 1991, following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding and the basis for payment (such as flat fees, fixed or variable royalties, combinations of flat fees and royalties, or other reasonable forms of payment); and a plan for applying such competitive bidding procedures to the initial 50 MHz reallocated from United States Government to non-United States Government use under section 404(d)(1)(A) of the Emerging Telecommunications Technologies Act of 1991, to be distributed during the fiscal years 1994 through 1996.

"(2) Competitive bidding shall not apply to—

"(A) license renewals;

"(B) the United States Government and State or local government entities;

"(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991;

"(F) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption; and

"(G) small businesses, as defined in section 3(a)(1) of the Small Business Act.

"(3) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural telecommunications needs are met and that existing rural licensees and their subscribers are not adversely affected.

"(4) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.".

(b) RANDOM SELECTION NOT TO APPLY WHEN COMPETITIVE BIDDING REQUIRED. —Section 309(i)(1) of the Communications Act is amended by striking the period after the word "selection" and inserting ", except in instances where competitive bidding procedures are required under subsection (j).".

(c) SPECTRUM ALLOCATION DECISIONS.—Section 303 of the Communications Act is amended by adding the following new subsection:

"(v) In making spectrum allocation decisions among services that are subject to competitive bidding, the Commission is authorized to consider as one factor among others taken into account in making its determination, the relative economic values and other public interest benefits of the proposed uses as reflected in the potential revenues that would be collected under its competitive bidding procedures.".

SEC. 809. DEFINITIONS.

As used in this title:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunications services.

(2) The term "assignment" means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "Communications Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(5) The term "Secretary" means the Secretary of Commerce.

TITLE IX—REPEAL RECREATIONAL VESSEL USER FEE

SEC. 901. RECREATIONAL BOAT TAX REPEAL.

(a) Section 2110 of title 46, United States Code, is amended—

(1) by repealing subsection (b);

(2) in subsection (c), by striking "subsections (a) and (b)," and inserting "this section,"; and

(3) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

TITLE X—REDUCTION IN DISCRETIONARY SPENDING

SEC. 1001. CHANGES IN DISCRETIONARY CAPS.

(a) CHANGES IN SPENDING.—Subsections 601(a)(2)(C) through 601(a)(2)(E) of title VI of the Congressional Budget Act of 1974 are amended to read as follows—

"(C) with respect to fiscal year 1993—

(i) for the defense category: $265,147,000,000 in new budget authority and $265,966,000,000 in outlays;

(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

(iii) for the domestic category: $197,119,000,000 in new budget authority and $220,380,000,000 in outlays;"

"(D) with respect to fiscal year 1994, for the discretionary category: $476,950,000,000 in new budget authority and $499,360,000,000 in outlays;

"(E) with respect to fiscal year 1995, for the discretionary category: $479,930,000,000 in new budget authority and $501,350,000,000 in outlays;

as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985."

FACTSHEET—ROTH "JOG AMERICA" PLAN—OCTOBER 24, 1991

3 PERCENT INDIVIDUAL INCOME TAX RATE REDUCTIONS

Individual tax rates would be reduced to four new brackets. They would be the 12%, 25%, 28% and 31% brackets.

Those Americans in the lowest tax bracket, would receive the greatest cut of approximately twenty percent. Those in the higher brackets would receive a lesser cut of about ten percent of their income taxes.

For a family of four earning $35,000, this would be a tax cut of $792, or twenty percent.

For a family of four earning $75,000, this would be a tax cut of $1,992, or fourteen percent.

BENTSEN-ROTH IRA

All Americans would be eligible for the fully deductible $2,000 IRA, currently available only to people not covered by a pension plan and with individual income under $25,000 or family income of $40,000.

The $2,000 limit on contributions would be indexed for inflation.

Taxpayers would have the option of getting a deduction when the money is deposited or forgoing an immediate deduction and not paying taxes on the money as it is withdrawn after a minimum waiting period of five years.

Young couples, or their parents or grandparents on their behalf, could make penalty-free withdrawals to pay for a first home.

Students, or their parents or grandparents on their behalf, could make penalty-free withdrawals to pay for college tuition.

Americans with medical expenses for themselves or for their dependents that are more than 7.5 percent of their income could make penalty-free withdrawals to help cover their costs.

Taxpayers could "rollover" money from their old IRA or qualified plan and deposit it into a "back-end" IRA if they pay the taxes on the earnings and previously deducted contributions. No penalty will apply and taxes on the withdrawal can be paid out of funds from the IRA account. When the funds are later withdrawn, after a five year waiting period, all proceeds including earnings will be tax-free.

INCREMENTAL INVESTMENT TAX CREDIT

The amount of the credit is ten percent of the increased investment in "qualified manufacturing and productive equipment" property.

For a business which has a "base amount" of $8,000 and purchases $15,000 of manufacturing equipment in one year, the credit would be equal to $700.

REPEAL OF THE BOAT USER FEE

Would repeal the boat user fee passed as part of the 1990 Budget Act.

REPEAL OF THE EARNINGS TEST

The bill would repeal the earnings test on social security, which reduces benefits for those earning more than $9,700 between the ages of 65 and 72.

DEFENSE CUT

9.5% cut over a five year period totalling $130 billion.

EXTEND UNEMPLOYMENT INSURANCE

Would extend benefits for at least 7 weeks to workers who have lost their jobs during the recession.

INTELLIGENCE AGENCY CUTS

A $500 million cut in each of the five years.

AGRICULTURE SUBSIDIES

Reduce farm credits to those with off-farm income of over $125,000; increase farmer responsibility for crop insurance premium payments; increase user fees for recreation and grain inspection and establish fees for agricultural marketing; continue shift from direct to guaranteed loans in Rural Electrification Administration.

STUDENT LOAN ENFORCEMENT

Allow the IRS to reduce the amount of a taxpayer's refund equal to the amount the taxpayer owes on a defaulted student loan.

POWER MARKETING LOANS

Revise the level and schedule of PMAs' debt repayments to the Federal government and require PMAs' to pay current market interest rates on their debt.

MEDICARE

Implement Medicare secondary payor reform (S. 365); refine Durable Medical equipment/oxygen payment methods, in part to reflect increased use of less-expensive oxygen delivery services; include payment for certain post-hospital services in medicare hospital payment; place medicare hospital update on January 1 cycle; pay a uniform rate for medicare covered outpatient services, whether performed in doctors' office or outpatient departments.

SPECTRUM FEE

Replace the allocation of radio spectrum with a system of competitive bidding for all future communications use.

POSTAL SERVICE SUBSIDIES

Require the Postal Service to pay a larger share of the costs for health benefits and COLA's for post 1971 retired postal employees and their survivors.

FEDERAL CIVILIAN PERSONNEL HIRING LIMITATION

This hiring limitation equals a 10% reduction in the non-postal employee work force over five years, without RIFs. Reduction is achieved through limiting replacement for retirements and quits.

SENATOR WM. V. ROTH, JR., "JOG AMERICA" PLAN—OCT. 24, 1991

Item	Fiscal Year—					
	1992	1993	1994	1995	1996	1992–96
Revenue items:						
Bentsen-Roth IRA (S. 612)[1]	($0.60)	($3.10)	($3.70)	($4.50)	($5.20)	($17.10)
Rollover of deductible IRA into back-end IRA[2]	1.20	2.00	1.30	1.10	.40	6.00
Rate reduction to 12 percent, 25 percent, 28 percent, and 31 percent[2]	(.30)	(9.10)	(20.30)	(32.70)	(43.90)	(106.30)
Incremental investment tax credit (S. 1831)[3]	(4.53)	(4.97)	(5.96)	(6.25)	(6.85)	(28.57)
Repeal boat user fee[4]	(.13)	(.14)	(.14)	(.15)	(.16)	(.72)
Repeal earnings test under Social Security (S. 10)[3]	(.45)	(.91)	(1.22)	(1.49)	(1.73)	(5.80)
Subtotal of revenue losses	(4.81)	(16.21)	(30.03)	(44.00)	(57.44)	(152.49)
Spending items:						
Potential defense cuts (detail attached—9.5 percent defense cut)[3]	.07	26.72	32.35	34.64	36.42	130.20
Intelligence Agency cuts[3]	.50	.50	.50	.50	.50	2.50
Unemployment (10/7 Weeks—Dole, Domenici, Roth)[4]	(2.69)	0	0	0	0	(2.69)
Agriculture subsidies[5]	0	.21	.38	.40	.40	1.39
Student loan enforcement[4]	.86	.07	.08	.08	.08	1.17
Power marketing loans[5]	.38	.38	.41	.42	.40	1.99
Postal subsidies[5]	0	.78	1.15	1.59	1.78	5.30
Medicare[5]	0	.78	1.15	1.59	1.78	5.30
Medicare secondary payor[3]	.40	.65	.65	.65	.65	3.00
Spectrum fee[4]	1.90	0	0	0	0	1.90
Civilian personnel limits[3]	0	1.82	3.59	5.31	6.99	17.71
Employee productivity bonus plan[3]	(.50)	(.50)	(.50)	(.50)	(.50)	(2.50)
Subtotal of cuts	.92	30.83	38.81	43.29	46.92	160.77

SENATOR WM. V. ROTH, JR., "JOG AMERICA" PLAN—OCT. 24, 1991—Continued

Item	Fiscal Year—					
	1992	1993	1994	1995	1996	1992–96
Total	(.89)	14.62	8.78	(.71)	(10.52)	8.28

[1]Treasury estimate from 1990.
[2]Joint tax estimate from 1990 or 1991.
[3]Staff estimate.
[4]Congressional Budget Office estimate.
[5]President's fiscal year 1992 budget.

Mr. CHAFEE. Mr. President, I commend the distinguished Senator from Delaware for that very thoughtful package. I do not agree with every part of it. I suppose no Senator will agree with all parts of it. But I think the Senator has made a very constructive contribution to the debate that I think we should be engaging in immediately. As always, his thoughts are very well phrased. He has spent a lot of time on it. I think there is nobody who has been involved with more progrowth efforts in our country than the distinguished Senator from Delaware. So I do commend him for the thoughts he expressed.

Mr. ROTH. If I could ask the Senator just to yield, I certainly appreciate his very kind and generous remarks. I might say that I look forward to working with him, not only on the Senate floor, in producing a viable package, but as a colleague of mine on the Finance Committee. Senator CHAFEE is, without question, one of our most innovative, informed Members.

I appreciate those kind remarks.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. DODD, Mr. METZENBAUM, Mr. LEAHY, and Mr. DECONCINI):

S. 1866. A bill to promote community-based economic development and to provide assistance for community development corporations, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL COMMUNITY ECONOMIC PARTNERSHIP ACT

Mr. KENNEDY. Mr. President, I rise today to introduce the National Community Economic Partnership Act of 1991. This act proposes that the Federal Government work side by side with the private sector to bring new jobs and business opportunities to our Nation's cities and rural areas.

One need not spend much time searching to find vivid illustrations of how the recession is affecting American families. The poverty rate across the Nation was higher in 1990 than at any time in the last 2 decades, with one out of every four American children growing up in poverty. In the last year, in my own region of the country, the Northeast, median household income dropped more than $1,700 or 5 percent.

In our cities, nearly 30 percent of those who are lucky enough to have jobs, found themselves living below the poverty line in spite of their best efforts to earn a living wage. In rural communities, that figure surpassed 40 percent. The decreasing value of the hourly wage coupled with recent reductions in government assistance have further exacerbated this alarming trend.

The National Community Economic Partnership Act offers concrete action designed to facilitate investment in local communities.

Small businesses are crucial to any community's economic stability and are the primary source of new jobs. Yet, the current recession coupled with the banking crisis is making it very difficult for small business to survive. According to recent studies, less than 2 percent of Federal small business loans go to businesses needing $25,000 or less.

The purpose of this act is to implement a national community economic development strategy by combining the skills of local community development corporations with private sector resources to improve the economic condition of low- and moderate-income communities.

The act establishes an investment partnership fund which provides technical and financial assistance to private business enterprises which target job opportunities to low income individuals or communities with above average rates of unemployment. However, in order to receive assistance, Federal funds must be matched by local funds—from private sector sources—on a dollar for dollar basis.

The legislation also provides seed funds for small emerging community development corporations. Such organizations have played a leadership role in developing affordable housing. With a minimal technical assistance in business planning and seed money for revolving loan funds, these organizations have the capacity to provide assistance in local enterprise development.

Finally, the legislation establishes an independent commission which would be responsible for administering the provisions of this act. the National Community Economic Partnership Commission will be the focal point for Federal community economic development policy and will work to coordinate Federal efforts to improve conditions in economically distressed communities.

Public-private partnerships work. Their success has been demonstrated in my home State and in many others. There are more than 50 community development corporations operating throughout Massachusetts and more than 2,000 nationwide. These CDC's are expanding their success story into economic development projects to combat the deepening recession and rising unemployment in their communities.

For example, the Franklin County Community Development Corp. in Greenfield, MA, has assisted more than 90 local businesses in obtaining enterprise development loans. Their tireless efforts have created an estimated 350 jobs and leveraged nearly $8 million in private investment in Franklin and northwestern Worcester Counties. It is this type of local ingenuity, cooperation, and commitment that the CDC's are all about.

The evidence is clear—from east Boston to Springfield—and from Massachusetts to California—CDC's are making a difference. By stimulating business and job opportunities through the CDC's, this act promotes economic independence and pride in our communities and our citizens.

I want to thank Senators JEFFORDS, DODD, METZENBAUM, LEAHY, and DECONCINI for joining me in sponsoring the National Community Economic Partnership Act 1991. I urge the Senate to act swiftly on this critically important legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Community Economic Partnership Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that

(1) the cities, towns, small communities and rural areas throughout the United States face critical social and economic problems arising in part from a lack of economic growth in community based economies;

(2) the crisis facing local economies has resulted in—

(A) a growing percentage of the workforce earning poverty level wages, even though they work full time and year round;

(B) the percentage of the labor force living below the poverty line increasing from 25.7 percent in 1979 to 31.5 percent in 1987;

(C) population losses, rising unemployment and a decline of the farm sector and of many other rural industries (such as timber, oil, gas, and mining) contribute to the decline of rural economies;

(D) with respect to rural areas, 31.9 percent of the workforce falling below the poverty

line in 1979, with that percentage rising to 42.1 percent in 1987;

(E) with respect to urban areas, 23.4 percent of the workforce falling below the poverty line in 1979, with that percentage rising to 28.9 percent in 1987; and

(F) the average wage and salary income of the 90 percent of the population with the lowest incomes, between 1977 and 1988, falling 3.5 percent in contrast to the richest 1 percent of the population whose incomes more than doubled in that time period.

(3) the future well being of the United States and the well-being of its citizens depends on the establishment and maintenance of viable community development enterprises;

(4) meeting the goal of establishing and maintaining viable community development enterprises requires—

(A) increased public and private investment in business development activities, especially in the small business sector which generates the majority of new jobs as evidenced by the fact that between 1980 and 1986, enterprises with less than 100 employees accounted for more than 50 percent of the jobs created in the U.S.;

(B) increased investment and technical assistance to existing community based enterprises as evidenced by the fact that during the first half of the 1980's, more than 75 percent of the total net new jobs in the United States came from the expansion of existing businesses;

(C) a substantial expansion and greater continuity in the scope of Federal programs that support community based economic development strategies;

(D) the continuing efforts at Federal, State and local levels to coordinate the planning, implementation and evaluation of community economic development efforts; and

(E) the formation of a national commission, as an independent agency, to administer the various community development programs and serve as a focal point for Federal efforts to promote community based economic development; and

(5) community development corporations, due to their proven capacity and achievements in both the field of community based housing and economic development, are appropriate vehicles through which to advance a national community economic development program because—

(A) there are currently over 2000 community development corporations throughout the United States, operating projects that promote community based housing and economic development;

(B) community development corporations operate in every State and in virtually every major city in the United States, and account for many of the existing efforts undertaken to meet the needs of low income persons in both urban and rural communities;

(C) community development corporations have developed some 225,000 units of housing, with over 90 percent of these units for use by low income occupants;

(D) community development corporations have developed over 17,400,000 square feet of retail space, offices, industrial parks and other industrial developments in economically distressed communities;

(E) community development corporations have made loans to over 3000 enterprises, equity investments in 242 ventures and own and operate 427 businesses; and

(F) community development corporations commercial, industrial and business enterprise development activities have accounted for the creation and retention of nearly 90,000 jobs in the last five years.

(b) PURPOSE.—It is the purpose of this Act to establish a National Commission on Community Economic Development, as an independent agency, to administer the community development programs established under this Act and to serve as a focal point for Federal efforts to promote community based economic development.

SEC. 3. NATIONAL COMMUNITY ECONOMIC PARTNERSHIP.

Chapter 8 of subtitle A of title IV of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended—

(1) by redesignating subchapters D, E, and F, as subchapters E, F, and G, respectively; and

(2) by inserting after subchapter C (as added by section 5082 of Public Law 101-508) the following new subchapter:

"Subchapter C—National Community Economic Partnership

"PART 1—NATIONAL COMMISSION ON COMMUNITY ECONOMIC DEVELOPMENT

"SEC. 659A. ESTABLISHMENT OF COMMISSION.

"(a) IN GENERAL.—There is established a National Commission on Community Economic Development (hereafter referred to in this subchapter as the 'Commission') that shall administer the programs established under this subchapter.

"(b) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—

"(A) IN GENERAL.—The Commission shall be administered by a Board of Directors (hereinafter referred to in this section as the 'Board') that shall be composed of 15 members which shall be appointed by the President, with the advice and consent of the Senate. To the maximum extent practicable, an effort should be made to appoint members who have extensive experience in community economic development programs and who represent a broad range of view points and diversity according to race ethnicity, age and gender.

"(B) RECOMMENDATIONS.—Of the members of the Board appointed under subparagraph (A), five such members shall have been appointed from among individuals recommended by the Speaker of the House of Representatives, and five of such members shall have been appointed from among individuals recommended by the Majority Leader of the Senate.

"(C) TIME FRAME.—All members of the Board shall be appointed under subparagraph (A) within 6 months following the date of the enactment of this subchapter.

"(D) NON-VOTING, EX-OFFICIO MEMBERS.—The Secretary of Health and Human Services, Secretary of Labor, Secretary of Commerce, Secretary of Housing and Urban Development, Secretary of Agriculture and the Administrator of the Small Business Administration shall serve as non-voting, ex-officio members of the Board.

"(2) TERMS.—Each member of the Board shall serve for a term of 2 years.

"(3) VACANCIES.—As vacancies occur on the Board, new members shall be appointed in the same manner as the predecessor of such new members were originally appointed, and such new members shall serve for the remainder of the term for which the predecessor of such member was appointed.

"(4) CHAIRPERSON.—The Board shall elect a chairperson and vice-chairperson from among its membership at the first meeting of the Board.

"(5) MEETINGS.—The Board shall meet not less than three times each year. The Board shall hold additional meetings if five members of the Board request such meetings in writing. A majority of the Board shall constitute a quorum.

"(6) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) DUTIES.—The Board shall—

"(1) have the authority to award grants, make loans, and extend lines of credit to community development corporations for the purpose of economic development activities;

"(2) consult with, and be consulted by, appropriate Federal agencies administering programs that fund community development activities, in order to maximize the coordination of such programs;

"(3) advise the President and the Congress concerning developments in community economic development that merit the attention of the President and the Congress;

"(4) have the authority to delegate authority to administer the programs established under this subchapter to any other agency or entity of the Federal Government, on the agreement of such agency or entity, as the Board determines appropriate;

"(5) provide, directly or through contract with public or private nonprofit organizations, training and technical assistance and disseminate information regarding programs and initiatives under this subchapter;

"(6) arrange for the evaluation of programs established under this subchapter;

"(7) carry out any other activities determined appropriate.

"(d) EXECUTIVE DIRECTOR OF THE COMMISSION.—

"(1) IN GENERAL.—The Board shall appoint an individual to serve as Executive Director of the Commission (hereinafter referred to in this section as the 'Director').

"(2) DUTIES.—The Director shall advise the Board concerning developments that the Director determines merit the attention of the Board, identify promising initiatives, and coordinate the work of the Board with the work of other Federal agencies involved in similar activities and in the design of competitive grant programs to provide assistance as authorized under this subchapter.

"(3) APPOINTMENT OF EMPLOYEES.—The Director may, at the discretion of the Board, appoint employees to administer the programs established under this subchapter.

"(4) COMPENSATION.—The Director and other employees described in paragraph (3) shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

"SEC. 659B. JOINT PROGRAMS.

"(a) DEVELOPMENT OF REGULATIONS.—The Commission shall develop and promulgate, in consultation with the heads of other Federal agencies, regulations designed to permit, where appropriate, the operation of joint programs under which activities supported with assistance provided under this subchapter are coordinated with activities supported with assistance provided under programs administered by the heads of such agencies.

"(b) STANDARDS.—Regulations promulgated under subsection (a) shall establish standards for the approval of joint programs that meet both the purposes of this sub-

chapter and the purposes of the laws under which other assistance is made available to support such projects.

"(c) OPERATION OF MANAGEMENT AGREEMENTS.—The Commission may enter into contracts and other appropriate arrangements with nonprofit organizations for the operation and management of any projects undertaken under a joint program authorized under this section.

"(d) COORDINATION.—The Commission shall coordinate joint programs carried out under this section with other related Federal, State, local and private activities.

"PART 2—PROGRAMS OF FINANCIAL AND TECHNICAL ASSISTANCE

"Subpart I—Community Economic Partnership Investment Funds

"SEC. 659E. PURPOSE.

"It is the purpose of this subpart to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

"SEC. 659F. PROVISION OF ASSISTANCE.

"(a) AUTHORITY.—The Commission is authorized, in accordance with this subpart, to provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income and unemployed individuals and to improve the quality of life in urban and rural areas.

"(b) REVOLVING LOAN FUNDS.—

"(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Commission shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this subpart an applicant shall—

"(A) be a community development corporation as defined by section 659W(1);

"(B) prepare and submit an application to the Commission that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income and unemployed individuals in the target area;

"(C) demonstrate previous experience in the development of low-income housing, community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

"(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

"(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Commission may require local contributions of not to exceed 25 percent of the amount of the line of credit requested by the community development corporation if the Commission determines such to be appropriate in accordance with section 659G.

"SEC. 659G. APPROVAL OF APPLICATIONS.

"(a) IN GENERAL.—In evaluating applications submitted under section 659F(b)(2)(B), the Commission shall ensure that—

"(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Commission);

"(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

"(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

"(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

"(B) local and regional job training programs;

"(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this subpart so that 75 percent of the jobs retained or created under such investments are provided to—

"(A) individuals with—

"(i) incomes that do not exceed the Federal poverty line; or

"(ii) incomes that do not exceed 80 percent of the median income of the area;

"(B) individuals who are unemployed or underemployed;

"(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public law 100-485); or

"(D) individuals whose jobs may be retained as a result of the provision of financing available under this subpart; and

"(5) a representative cross section of applicants are approved including, large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

"(b) PRIORITY.—In determining which application to approve under this subpart the Commission shall give priority to those applicants proposing to serve a target area with—

"(1) a median income that does not exceed 80 percent of the median for the area (as determined by the Commission); and

"(2) a high rate of unemployment, as determined by the Commission.

"SEC. 659H. AVAILABILITY OF LINES OF CREDIT AND USE.

"(a) APPROVAL OF APPLICATION.—The Commission shall provide a community development corporation that has an application approved under section 659G with a line of credit in an amount determined appropriate by the Commission, subject to the limitations contained in subsection (b).

"(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

"(1) MAXIMUM AMOUNT.—The Commission shall not provide in excess of $2,000,000 in lines of credit under this subpart to a single applicant.

"(2) PERIOD OF AVAILABILITY.—A line of credit provided under this subpart shall remain available over a period of time established by the Commission, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

"(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this subpart has made full use of such line of credit, and can demonstrate the need and demand for additional assistance as well as the availability of a continued supply of contributions as required under section 659F(b)(2)(D), the amount of such line of credit may be increased.

"(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this subpart shall be used solely for the purposes described in section 659E and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

"(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this subpart may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 659G(a)(4).

"SEC. 659I. LIMITATIONS ON USE OF FUNDS.

"(a) INVESTMENTS.—Not to exceed 50 percent of the total amount to be invested by an entity under this subpart may be derived from funds made available from a line of credit under this subpart.

"(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 20 percent of the amounts available from a line of credit under this subpart shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Commission to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Commission shall assist in the identification and facilitation of such technical assistance.

"(c) LOCAL CONTRIBUTIONS.—To receive funds available under a line of credit provided under this subpart, an entity, using procedures established by the Commission, shall demonstrate to the community development corporation that such entity agrees to provide local contributions in accordance with section 659F(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

"(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using amount made available under this subpart may be used only for the purposes described in section 659E and shall be reinvested in the community in which they were generated.

"SEC. 659J. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

"(a) IN GENERAL.—The Commission shall give priority in providing lines of credit under this subpart to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, very low-income communities, single mothers, or refugees and to programs providing loans of not more than $35,000 to very small business enterprises.

"(b) RESERVATION OF FUNDS.—Not more than 5 percent of the amounts appropriated under section 659K may be reserved to carry out the activities described in subsection (a).

"SEC. 659K. AUTHORIZATION FOR APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriate to carry out this subpart, $35,000,000 for fiscal year 1993, $50,000,000 for fiscal year 1994, and $65,000,000 for fiscal year 1995.

"(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

"Subpart II—Emerging Community Development Corporations

"SEC. 659N. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Commission shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

"(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

"(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

"(B) to acquire such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Commission shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

"(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

"(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subpart I;

"(B) to develop a business plan related to such a potential project; or

"(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

"(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Commission an application at such time, in such manner, and containing such information as the Commission may require.

"(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

"SEC. 659O. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

"(a) AUTHORITY.—The Commission is authorized to award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a community development corporation;

"(2) have completed not less than one nor more than two community economic development projects; and

"(3) prepare and submit to the Commission an application at such time, in such manner, and containing such information as the Commission may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals.

"(c) USE OF THE REVOLVING LOAN FUND.—

"(1) IN GENERAL.—A revolving loan fund establish or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

"(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

"(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

"(2) TECHNICAL ASSISTANCE.—The Commission shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

"(3) LIMITATION.—Not to exceed 20 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

"(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subchapter and shall be reinvested in the community in which they were generated.

"(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

"SEC. 659P. AUTHORIZATION FOR APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart, $15,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995.

"(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

"Subpart III—Research and Demonstration

"SEC. 659R. RESEARCH AND DEMONSTRATION.

"(a) GRANTS.—The Commission shall award grants to organizations to enable such organizations to undertake programs involving research, testing, studies or demonstrations related to community economic development.

"(b) ELIGIBLE ORGANIZATIONS.—To be eligible to receive a grant under this section, and entity shall—

"(1) be a community development corporation, university, fiscal intermediary or a non-profit organization involved in community based economic development activities; and

"(2) prepare and submit to the Commission an application at such time, in such manner and containing such information as the Commission determines appropriate.

"(c) USE OF FUNDS.—Amounts received under a grant awarded under this section shall be made available for studies, reports, tests or demonstration projects that—

"(1) identify current problems facing both urban and rural low income communities or specific population groups within low income communities;

"(2) identify solutions to the problems facing both urban and rural low income communities or specific populations groups within low income communities;

"(3) examine or critique current strategies being implemented to address economic issues facing low income communities; and

"(4) relate to any other matters determined appropriate by the Commission.

"(d) MAXIMUM AMOUNT OF GRANT.—A grant awarded under this section shall not exceed $50,000.

"SEC. 659S. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, such sums as may be necessary for each of the fiscal years 1993 through 1995.

"PART 3—MISCELLANEOUS PROVISIONS

"SEC. 659W. DEFINITIONS.

"As used in this subchapter:

"(1) COMMUNITY DEVELOPMENT CORPORATION.—The term 'community development corporation' means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of housing and community economic development projects that primarily benefit low income individuals and communities.

"(2) LOCAL CONTRIBUTION.—The term 'local contribution' means the amounts generated at the local level (by private financial institutions, State and local governments, private philanthropic organizations and private, non-profit organizations) that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this title.

"(3) PRIVATE BUSINESS ENTERPRISE.—The term 'private business enterprise' means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this title to certain individuals.

"(4) TARGET AREA.—The term 'target area' means any area defined in an application for assistance under this title that has a population whose income does not exceed the median for the area within which the target area is located.

"(5) VERY LOW INCOME COMMUNITY.—The term 'very low income community' means a community in which the median income of the residents of such community does not ex-

ceed 50 percent of the median income of the area.".

SEC. 659X. PROHIBITION.

None of the funds authorized under this Act shall be used to finance the construction of housing.

By Mr. STEVENS (for himself, Mr. PRYOR, Mr. MURKOWSKI, Mr. GRASSLEY, and Mr. D'AMATO):

S. 1868. A bill to amend title 39, United States Code, to revise the procedures under which any change in the nature of postal services, which will generally affect service on a nationwide or substantially nationwide basis, may be implemented; to the Committee on Governmental Affairs.

POSTAL DELIVERY STANDARDS ACT

• Mr. STEVENS. Mr. President, today I am introducing legislation which would return the public's right to comment, or object to any Postal Service effort to diminish mail delivery service or service standards. Last year, the U.S. Postal Service reduced service standards that resulted in a reduction in service in parts of this country. It seems that since the Postal Service could not meet their delivery standards in these sections of the country, and since these standards had not changed in 20 years, the Postal Service decided to reduce these standards. By reducing these standards, the Postal Service instantly improved their on-time mail delivery record. As my good friend, Senator DAVID PRYOR of Arkansas said, this is like raising the flag halfway up the flagpole, cutting off the pole at that point, and exclaiming that you have raised the flag to the top. The postal unions objected to this reduction in service. The Postal Inspection Service concluded that it was a wrong move, and the Postal Rate Commission said it should not be done.

Although many of us had misgivings about this action, we felt management was responsible, and that they should have an opportunity to prove themselves. Despite this change, which should have resulted, on paper at least, in a steadying or increase in on-time delivery, the Postal Service delivery performance is down. The Postal Service is not through with initiating changes that will downgrade service. Changes have been proposed that will contribute to less timely delivery in remote areas of Alaska, as well as to businesses in New York City. I am now convinced that the Postal Service should have not been able to reduce their delivery standards, and consequently, service so easily. Their goal should have been to improve service, and that was not possible. They have an obligation to explain such action to the public. The public has a right to expect good service, or know the reason that they are not receiving it.

My bill provides an avenue for more effective public comment should postal management decide to reduce mail service again. It provides for an increased role of the Board of Governors and indirectly for the Postal Rate Commission in setting policy in this area. Under the provisions of this bill, the Postal Service would be required to obtain an opinion from the Postal Rate Commission before initiating any reduction in national service or regional service that could have national consequences. The Commission would have an opportunity to hear postal management's request for any reduction in service and would provide an opportunity for public comment. Based on the record, the Commission would give its advice as to the request, including an express conclusion that it should not be implemented. At the request of management, the Postal Governors could overrule such an adverse recommendation by the Rate Commission. But, in order to override a ruling, Postal Service management would have to justify their reduction to their Governors, and the Governors would have to agree unanimously. This would certainly make the public's input a more significant factor, and I would hope it would make postal management think twice about reducing service when there is significant opposition to such reduction.

Mr. President, I ask unanimous consent to print at the end of my remarks text of the bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 3661 of title 39, United States Code, is amended—

(1) in subsection (b) by striking "advisory";

(2) in subsection (c) by adding at the end the following: "The Commission shall transmit a copy of its opinion to the Governors."; and

(3) by adding after subsection (c) the following:

"(d) If, in its written opinion, the Commission concludes that the proposal should be rejected, the Postal Service may not implement such proposal except with the written concurrence of all of the Governors then holding office."•

By Mr. MCCAIN (for himself and Mr. DECONCINI):

S. 1869. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; to the Select Committee on Indian Affairs.

SAN CARLOS INDIAN IRRIGATION PROJECT DIVESTITURE ACT OF 1991

• Mr. MCCAIN. Mr. President, I am pleased to join today with my distinguished colleague from Arizona, Senator DECONCINI, in introducing a bill providing for the divestiture of Federal ownership and control of the electrical transmission and distribution system of the San Carlos Indian Irrigation Project [SCIP] in central Arizona.

The primary purpose of this bill is to authorize the Secretary of the Interior to transfer the SCIP electric system to the Gila River Indian Community and the San Carlos Apache Tribe and several Arizona utilities, consistent with a series of agreements entered into between and among them.

This legislation would also settle the debt owed to the United States in connection with construction of the system, earmark funds for the cleanup of hazardous waste on system lands for which the United States will retain responsibility, reallocate SCIP's power allocation, and address concerns of its Federal employees. The legislation would provide for the accomplishment of these objectives without any new authorization of Federal appropriations.

By providing the means for the Gila River and San Carlos Tribes to assume control over the operation of the electric systems on their reservations, this legislation will advance the Federal policy goals of Indian self-determination and economic self-sufficiency. By providing for the eventual absorption of the off-reservation portions of the system into local public and private electric systems, it will contribute to more rational, efficient, and cost-effective electrical service in central Arizona.

Mr. President, this legislation has evolved over more than 4 years as the Interior Department, the local parties in interest, and the Arizona congressional delegation have sought to develop solutions and answers to the many problems and questions that necessarily arise from an effort to eliminate one small part of the Federal bureaucracy. I believe we are close to a final version that will be acceptable to all parties.

The SCIP electric system is one of only two in the United States operated by the Bureau of Indian Affairs [BIA]. By the Act of June 7, 1924, Congress authorized construction of Coolidge Dam on the Gila River to provide water to irrigate 50,000 acres of the Gila River Indian Reservation. The act also provided that water would be available to another 50,000 acres of land off the reservation if, in the judgment of the Secretary, those lands could be served without diminishing the Indians' supply. Together, the on- and off-reservation lands are known as the San Carlos Irrigation Project.

Coolidge Dam's 1.2 million acre-feet reservoir was expected to supply water to 80,000 acres of land; the other 20,000 acres was to be supplied from the San Pedro River, return flows, and groundwater. To provide power for pumping groundwater, Congress, by the Act of March 7, 1928, authorized development of hydropower at Coolidge Dam. The Act also provided that power be made available for the San Carlos Indian Reservation and for sale of excess power incident to the use of reservoir.

In 1931 construction of the dam, spillway gates, and electrical generation and distribution facilities was completed. Pursuant to the 1928 Act, the Secretary entered into a contract with the San Carlos Irrigation and Drainage District, a creature of Arizona law, to pay a share of the total project costs, including power, and operation and maintenance on the off-reservation lands.

Drought conditions in the 1930's kept reservoir levels low and made clear that Coolidge's hydropower could not be relied upon as a dependable source of energy. It also became evident that water would seldom be released except for irrigation and there would be little, if any, hydroelectric power during a normal winter season. Consequently, a diesel-electric generation station was established near the town of Coolidge to firm-up SCIP's dependable power. This station was a principal source of power for the project from 1935 to 1974.

From 1931 to 1935 a copper corporation purchased practically all of Coolidge's hydroelectric power. From 1935 to 1937 electric service was extended to the San Pedro Valley communities of Oracle, Tiger, Mammoth, Winkelman, and Hayden Junction. A Rural Electrification Administration Project sponsored by the San Carlos Irrigation and Drainage District further extended service in the Casa Grande Valley and on the Gila River Indian Reservation. The system continued to expand to serve residential, commercial, and industrial customers, with the Bureau of Indian Affairs assuming the role of a power utility in the area. In addition to serving 106 project well pumps, SCIP currently services approximately 10,000 customers (3,000 on reservation and 7,000 off reservation).

In 1952 the BIA contracted with the Bureau of Reclamation to provide power from Davis Dam on the Colorado River for SCIP use, as a preference customer, to supplement the generated electric power. In 1975 Parker-Davis and Colorado River Storage Project power was allocated to SCIP to meet on-reservation load, though not all for irrigation purposes. SCIP's allocation of 19,085 kilowatts is now supplemented by power purchased under contract with Arizona Public Service Company, the Salt River Project, and the Arizona Power Pooling Association.

By the mid-1980's, dissatisfaction with the system had become widespread. Increasing customer complaints about the condition, reliability, and management of the SCIP system led the Gila River Indian Community, the San Carlos Irrigation and Drainage District, and the San Carlos Apache Tribe to conclude that they could do a better job managing the various portions of the system themselves. They asked the Arizona delegation to consider transferring the system to them.

Representative JIM KOLBE of Arizona, in whose congressional district most of the SCIP service area is located, initiated the process of identifying whether and how such a transfer should take place by introducing, in April 1987, a one-paragraph bill, H.R. 2060, to authorize the Secretary of the Interior to divest the BIA of the SCIP electric system. Arizona's other House members, including Interior Committeeman Morris Udall, cosponsored the bill.

In June, 1987, the House Interior Committee held a hearing on H.R. 2060. All witnesses, including the Interior Department's, supported the concept of divestiture. There was consensus that the SCIP power system, comprised of components of widely varying age and design, was in poor condition that contributed to power outages, and that renovation and maintenance was not keeping up with demands. Seven substations needed uprating or replacing, with the cost of rehabilitating the transmission and distribution facilities estimated by BIA at $25,000,000 at 1983 prices. In addition, the system's small power plant at Coolidge Dam, inoperable since 1983 due to flood damage, required between $5,000,000 and $7,000,000 to return to operating condition.

Testimony cited SCIP's status as a small agency within a large Federal bureaucracy as aggravating its difficulties in operating and maintaining its farflung system in a manner even close to the level of efficiency generally expected of local public or private utilities. Federal personnel constraints, acquisition regulations, and rate setting procedures hamper SCIP's management's ability to obtain required personnel and equipment or respond to customer or system needs in timely fashion.

The hearing revealed a long list of issues that needed to be resolved if divestiture was to take place. These issues included allocation of the electric system's physical and financial assets; settlement of the Gila River Indian Community and San Carlos Irrigation and Drainage District's joint power system debt to the United States; reallocation of SCIP's Federal power allocations; whether to rehabilitate the Coolidge Dam power plant; impacts on SCIP's Federal employees; and allocation of SCIP's off-reservation service area that is outside the boundaries of the San Carlos Irrigation and Drainage District.

Because Congress has no jurisdiction over the allocation of electric service territory within Arizona, which is a responsibility of the Arizona Corporation Commission under Arizona law, committee members urged the parties to negotiate territorial agreements, which would be subject to Commission approval, as a prerequisite to moving divestiture legislation.

In September 1989, the Gila River Indian Community, the San Carlos Irrigation and Drainage District, Arizona Public Service Company, TRICO Electric Cooperative, Inc., and Electrical District No. 2 signed statements of principles providing for the allocation of SCIP's electric service territory and setting out procedures by which divestiture would be implemented, subject to the approval of the Arizona Corporation Commission and enactment of legislation by Congress.

Key provisions of the statements of principles provide for Arizona Public Service Company to pay the San Carlos Irrigation and Drainage District $10,500,000 for portions of the off-reservation system to be divested to the district, and for the termination of an existing power contract that Arizona Public Service Company has with SCIP. This contract is to be replaced with new contracts between Arizona Public Service Company, the Gila River Indian Community, the San Carlos Irrigation and Drainage District, and the San Carlos Apache Tribe.

Pursuant to the statements of principles and the legislation, the San Carlos Irrigation and Drainage District would pay the United States approximately $2 million of the amount it would receive from Arizona Public Service Company as its share of the outstanding SCIP electric system—also known as the power division—debt. The district would also disclaim its interest in funds credited to the SCIP power division; such funds would be allocated to the Gila River Indian Community under the terms of the legislation. The district's debt payment, coupled with an equal amount from the Gila River Indian Community, would fund the required cleanup of SCIP's hazardous waste materials.

In July 1990, the House Interior Committee held a hearing on H.R. 4117, a revised divestiture bill introduced by Representative JIM KOLBE, Republican, of Arizona, and cosponsored by the other Arizona House Members. This 21-page bill dealt with each of the issues raised in the 1987 hearing. Testimony addressed these provisions as well as with the results an audit of SCIP performed by Arthur Anderson & Co. under contract with the BIA.

The audit, a statement of SCIP's financial condition as of September 30, 1989, was the first in SCIP's history and confirmed many criticisms of SCIP's management. The auditors found that "certain of the weaknesses are so pervasive and fundamental [in SCIP's accounting system and internal control procedures] as to render the accounting systems unreliable." As a result of these weaknesses in accounting controls, the auditors could not determine whether such basic categories as vehicles and equipment, customer deposits in the U.S. Treasury, cash and temporary investments managed by the BIA, accrued interest income, accumulated results of operations, or customer advances were properly accounted for. For this report, as well as followup

audit for the year ending September 30, 1990, a lack of historical records forced the auditors to make extensive use of estimates.

The two tribes and all of the non-Federal entities testified in support of H.R. 4117. The Department's testimony, however, raised new concerns that required further information not readily available. Subsequently, Assistant Secretary for Indian Affairs Brown and Representative KOLBE agreed to delay a decision on divestiture legislation until the Department had studied three issues: First, the feasibility of repairing the electric generators at Coolidge Dam; second, the extent and cost to clean up hazardous waste materials associated with SCIP operations; and third, alternatives for operation and administration facilities for SCIP's irrigation division, which would remain in Federal ownership after divestiture of the power division.

Because the allocation of SCIP funds contemplated by the divestiture legislation and the statements of principles assumed that repairing the generators was not feasible and that the environmental account to be funded by the debt payments would be adequate to cover the costs of hazardous waste cleanup, the findings of the studies were crucial. The studies were to be completed by February 1991.

In March 1990, Representative KOLBE introduced H.R. 1476, again with Arizona's other House Members as cosponsors. Subsequently, results of the BIA's three studies became available. These found that first, spending $5,400,000 of SCIP power division funds to repair the Coolidge Dam generators is not feasible; second, the cost of the required cleanup of hazardous waste materials will be less than the funds available from the debt payments by the Gila River Indian Community and San Carlos Irrigation and Drainage District; third, adequate alternative facilities for the SCIP irrigation division could be found for less than $1 million.

Mr. President, the Arizona congressional delegation has attempted to respond constructively to every legitimate issue that has been raised by the Bureau of Indian Affairs and the Interior Department. The bill which Senator DEConcini and I introduce today is the same as H.R. 1476, except for essentially technical changes after consultations with the parties in interest in Arizona and the Bureau of Indian Affairs. While further fine-tuning may be necessary, I believe it is time to enact a San Carlos divestiture bill.

The case for divestiture of the SCIP electric system is, if anything, stronger today than it was 4 years ago. Taken alone, the results of the recent SCIP audits make a powerful argument for relieving the Bureau of Indian Affairs of any further responsibility for operating an electric utility. It is time to acknowledge the desire and ability of the Gila River Indian Community and San Carlos Apache Tribe to assume greater responsibility for their electric system as part of their continuing efforts to control their economic futures. And it is time to recognize that local public and private utilities are more appropriately suited to provide electric service in central Arizona than a small appendage of the Bureau of Indian Affairs.

I note, in fairness to SCIP's employees, that much of what is wrong with the system and its management is not of their doing. Divestiture is not an attack on their loyalty, integrity, or competence. The fact is that SCIP and the Bureau of Indian Affairs are agencies of Government organized and operated under rules and procedures illsuited to the efficient operation of an electric utility. While SCIP has, in its more than 60 years of existence, provided valuable service to thousands of people, it is time to honor the demands of its beneficiaries for a change.

As the Select Committee on Indian Affairs and the House Interior Committee prepare for a hearing on this legislation next week, I would like to compliment the Gila River Indian Community, the San Carlos Apache Tribe, the San Carlos Irrigation and Drainage District, Arizona Public Service Company, Electrical District No. 2, and TRICO Electrical Cooperative for their commitment and perseverance. I would also like to pay special tribute to my House colleague, JIM KOLBE, for his initiative and untiring efforts to develop and pass fair and workable legislation to achieve divestiture of the SCIP electric system.●

By Mr. EXON (for himself and Mr. DASCHLE):

S. 1870. A bill to establish the Peace and Prosperity Commission to review United States economic policies toward the former Soviet Union; to the Committee on Foreign Relations.

PEACE AND PROSPERITY COMMISSION ACT OF 1991

Mr. EXON. Mr. President, several days ago, I discussed the dramatic changes in the Soviet Union and the need to formulate an appropriate American response to the stunning and revolutionary rejection of communism in the Soviet Union. This turning point in history presents the United States, a once in an epoch opportunity to advance the cause of peace and to create new opportunities for prosperity in the United States and the sixth of the world that was formerly the Soviet Union Communist empire.

It is critical that the United States immediately evaluate these global changes and move aggressively to seize this moment in history. Because I believe that this moment is too important to lose to politics, I am here today to introduce a bill on behalf of myself and my colleague, Senator DASCHLE of the State of South Dakota to create a U.S./U.S.S.R. Peace and Prosperity Commission. This bipartisan commission will review the entire United States economic relationship with the former Soviet Union, Republics of the Soviet Union and Baltic Republics and to make recommendations to the President and Congress concerning the types of economic cooperation which can serve the mutual interests of the United States and the Soviet Union.

The commission will recommend appropriate short-, medium- and long-term goals and suggestions that can be made to enhance the purpose of the legislation. It seems to me, Mr. President, that if we can talk about cooperation economically in trade, investment, and all the other opportunities that we have at hand, between the United States and the Soviet Union, and their former associate states, we will be embarking on a course that would be good for not only the peoples of the two countries involved, but the people of the world as a whole.

The key areas of investigation includes but will not be limited to food and food processing and distribution, and as far as military conversion is concerned, which can play a key part in providing more food desperately needed by the people of the Soviet Union today.

It will also include the possibility of a great opportunity in telecommunications, in transportation, and certainly environmental cleanup, financial services, infrastructure development, and the responsible development of Soviet natural resources.

One of the most important missions of the commission will be to review and report on the opportunities for expanding American exports to the Soviet Union. The commission will consist of 23 members drawn from government, business, and academia, to be appointed by the President and the Democratic and Republican leaders of both Houses of Congress.

Because of the urgency of the situation and the fast forward pace of events in the former Soviet Union, the commission will be expected to make several periodic reports to the President and to the Congress. The first report to the President and the Congress will be made within 6 months of the date of the enactment of this piece of very important legislation and each 6 months thereafter, until the commission files a final report at the end of a 2-year period.

The bipartisan commission will take a top-down look at U.S.-U.S.S.R. economic relationship and its future. This is a new era, requiring a new look, with new policies. The commission can get this process going. It can tap the experience and the insight of America's most knowledgeable experts and those in the Soviet Union toward this very important economic transition period.

The commission will consider the weighty issues of the U.S.-U.S.S.R.

economic relationships in a bipartisan and thoughtful manner. I am hopeful that the commission will insulate itself from all other issues that have so deeply divided us in the past and begin to face up to the critical issues that face us today.

The purpose of this legislation is to have the commission make short-, medium-, and long-term recommendations. It should not be interpreted as an effort to delay immediate food and humanitarian measures, which I fully support. I, indeed, recommend immediate and massive aid to get American food to the Soviet Union during this coming winter. Such an effort will help American farmers, who desperately need new markets, and the Soviet Union and its people, also, who, while reaching for democracy and a market economy, are facing a wrenching period of transition.

Mr. President, I wish to compliment two of my great friends, former Congressman John Cavanaugh, of Omaha, and Douglas County Commissioner, Howard Buffett, who originally came to me with the suggestion of creating such a bipartisan commission. Both men are knowledgeable about the Soviet Union, and I certainly have enjoyed working with them on this very important initiative.

I encourage my colleagues to carefully and expeditiously study this legislation. I welcome their support and advice. The United States and the former Soviet Union are indeed entering into a very new era. It is time to start exploring the exciting parameters and opportunities of this new relationship and the new Soviet Union.

Mr. President, I send to the desk the measure offered by myself and Senator DASCHLE, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Peace and Prosperity Commission Act of 1991".

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is established the Commission on Peace and Prosperity (hereafter in this Act referred to as the "Commission"). Appointments to the Commission shall be made within 30 days of the date of enactment of this Act.

SEC. 3. PURPOSE.

The purpose of this Act is to provide for the review of United States economic policies toward the former Soviet Union, the republics of the former Soviet Union, and the Baltic republics and to provide for recommendations to be made to the President and the Congress based on such review.

SEC. 4. MEMBERSHIP OF COMMISSION.

(a) COMPOSITION.—The Commission shall be composed of 23 members, who shall be United States citizens, to be appointed as follows:

(1) 5 members to be appointed by the President.

(2) 6 members to be appointed by the Speaker of the House of Representatives.

(3) 3 members to be appointed by the Minority Leader of the House of Representatives.

(4) 6 members to be appointed by the Majority Leader of the Senate.

(5) 3 members to be appointed by the Minority Leader of the Senate.

(b) SECTORS REPRESENTED.—Appointments shall be coordinated so that one or more of the members of the Commission are drawn from each of the following sectors: government, agriculture, business, labor, and academia.

(c) LEADERSHIP.—The Commission shall elect a Chairman and Vice Chairman.

(d) QUORUM.—Twelve members shall constitute a quorum.

(e) EFFECT OF VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(f) PROHIBITION ON COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service, to the extent such funds are available for such expenses.

SEC. 5. FUNCTIONS OF THE COMMISSION.

The Commission shall review the entire United States economic relationship with the former Soviet Union, the republics of the former Soviet Union, and the Baltic republics and shall make specific recommendations to the President and the Congress concerning the types of economic cooperation which may serve the mutual interests of the United States and the former Soviet Union, the republics of the Soviet Union, and the Baltic republics. The Commission shall recommend appropriate short-, medium-, and long-term initiatives which the United States may take in the areas of economic cooperation, trade, and investment.

SEC. 6. REPORTS.

(a) INTERIM REPORTS.—Beginning 5 months after the date of enactment of this Act, and every 6 months thereafter, the Commission shall submit a report to the Congress on its activities since the date of the last report or, in the case of the first report, since the date of enactment of this Act.

(b) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Congress a final report which shall include recommendations on the following areas:

(1) food;

(2) food processing, distribution, and storage;

(3) military conversion;

(4) telecommunications;

(5) infrastructure improvement and development;

(6) transportation;

(7) environmental cleanup;

(8) investment;

(9) banking and financial services;

(10) mining;

(11) energy;

(12) the development of natural resources; and

(13) opportunities for expanding United States exports to the former Soviet Union, the Soviet republics, and the Baltic republics.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this Act, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 8(b).

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this Act, subject to the limitation on total expenses set forth in section 8(b).

(e) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission (subject to the limitation on total expenses set forth in section 8(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS–15 or above of the General Schedule under section 5332 of such title.

(f) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 8. EXPENSES OF COMMISSION.

(a) AVAILABILITY OF FUNDS.—Any expenses of the Commission shall be paid from such funds as may be available to the President.

(b) LIMITATION ON EXPENSES.—The total expenses of the Commission (excluding salaries) shall not exceed $1,000,000.

(c) AUDITING REQUIREMENT.—Before the termination of the Commission the Comp-

troller General of the United States shall audit the financial books and records of the Commission to determine that the limitation on expenses has been met.

SEC. 9. TERMINATION.

The Commission shall cease to exist two years and three months after the date of enactment of this Act.

By Mr. GORTON:

S. 1871. A bill to amend the Immigration and Nationality Act to entitle persons born on or before May 24, 1934 to acquire U.S. citizenship through their U.S. citizen mothers; to the Committee on the Judiciary.

CITIZENSHIP EQUITY ACT

Mr. GORTON. Mr. President, American citizenship is one of the most precious commodities any of us can possess. Every year, tens of thousands of people from all over the world proudly pledge their allegiance to this Nation as they become our newest citizens. And for each of them, there are many more who would sacrifice everything they have for the privilege to do the same thing.

For those of us fortunate enough to have been born of American parents or an American parent, citizenship is a birthright whether we were born here or abroad.

The one glaring exception applies to children born abroad prior to 1934 to American mothers and noncitizen fathers. Under an 1855 immigration law that is still on the books, these children, who are now seniors, have been denied their birthright. For them, American citizenship may come only through naturalization, if at all. If the citizenship of their parents had been reversed, however, they would have been born American.

The Congress in 1934 realized the discriminatory nature of the 1855 statute and proceeded to change it. Fourteen years after women were given the right to vote, the immigration laws were amended to permit American mothers to pass citizenship to their foreign born children on an equal footing with American fathers.

But the job was left only half done. The changes in the law applied only prospectively.

I learned about this gap in our immigration laws quite by accident. Charles DeWitt, a Washington resident, recently learned that his American citizenship had been decreed by mistake some 50 years ago. Despite carrying an American passport, despite serving as a loyal member of the Marine Corps, despite living in America since 1936, despite voting in numerous elections, and despite being a good American in every sense of the word, he is not an American citizen and he never was. All because he was born in Canada and his mother, rather than his father, was American.

Charles DeWitt no longer can call himself an American citizen. As a result, his passport was invalidated and replaced with an alien registration card. He no longer has the right to vote. In short, he not longer enjoys the distinct privileges that so many of us take for granted. For all intents and purposes, he is considered to be a foreign national who is permitted to remain here only by the grace of the Federal Government.

That is wrong, Mr. President, clearly wrong. And it is now time to finish the job that Congress began in 1934.

I am pleased to introduce today the Citizenship Equity Act which will allow U.S. citizenship to be passed through either parent for children born abroad before 1934. This is a bill designed to correct the injustices created by a law that not only is outdated, a remnant of an era when women were treated as chattels rather than equal partners, but in all likelihood is unconstitutional as well. My bill will end the discriminatory practice of refusing women the right to pass citizenship to their children.

Mr. President, it is time to correct once and for all this vestige of a time long past. It is time the foreign born children of American mothers be granted the citizenship they always thought they had, and which they rightly deserve.

And, Mr. President, it is time to give Mr. DeWitt back his birthright, his American citizenship.

Mr. President, I ask unanimous consent that the text of the bill and an article from the Seattle Times be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizenship Equity Act of 1991".

SEC. 2. UNITED STATES CITIZENSHIP TO BE ACQUIRED THROUGH EITHER UNITED STATES CITIZEN PARENT.

Section 301 of the Immigration and Naturalization Act (8 U.S.C. 1401) is amended—

(a) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(b) by adding at the end thereof the following:

"(h) a person born on or before May 24, 1934, outside the geographical limits of the United States and its outlying possessions of parents, one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions.".

[From the Seattle Times, Sept. 16, 1991]

CITIZEN FINDS HE ISN'T ONE

(By Nancy Montgomery)

REDMOND—Charles DeWitt, a former U.S. Marine, voted for Ronald Reagan, roots for the Seahawks and works for the State Department of Transportation.

For most of his 59 years, he's thought of himself as a U.S. citizen, just the way his mother taught him to.

But the Immigration and Naturalization Service told him, when he went in to replace his citizenship-identification card four years ago, that he is not a citizen of the United States. He's actually a Canadian citizen, they said, because his mother, a U.S. citizen who married and later divorced an officer in the Royal Canadian Signal Corps, gave birth to him in Canada.

Get a green card, they suggested.

"I couldn't believe it," said DeWitt, who lives in Redmond. "I didn't want to believe it. I felt I was a person without a country."

At first he tried to ignore the problem but he grew more and more anxious. About a year ago he contacted immigration attorneys Pam Cowan and Steve Miller. And he found out his situation isn't exactly unique.

Anyone born outside the U.S. before 1934, whose mother was a U.S. citizen but whose father was not, is not a citizen.

The problem is a law enacted in 1855 that passed on U.S. citizenship only paternally, to children born out of the country to American fathers.

"The reason why women couldn't pass on citizenship was obviously based on notions of women as chattel of their husbands," Miller said. "If she went abroad and married a foreigner, she was no longer a person in her own right. It's immensely stupid."

Two years after DeWitt was born, in 1934, the law was changed to pass on U.S. citizenship through either parent.

"It was changed because women got the vote in the 1920s, and there was a big movement in the '30s to equalize these medieval laws," said Susana Igleheart, a San Francisco immigration lawyer representing three clients in situations similar to DeWitt's in a lawsuit against the government.

But Congress did not make the new law retroactive, and the Victorian-era measure sill covers all those born before 1934.

Igleheart argued her two cases before San Francisco Federal District Court Judge Robert Peckham. He recently ruled the law was unconstitutional because it did not offer equal protection to women, and he granted citizenship to three women whose American mothers gave birth to them in other countries.

The U.S. State Department is appealing the decision in the 9th Circuit Court of Appeals, of which Washington is a part.

"It's our duty and responsibility to defend all acts of Congress as constitutional," said Joe Krovisky, U.S. Justice Department spokesman.

DeWitt doesn't want to sue the government, so Miller asked the Immigration and Naturalization Service for help.

The Immigration and Naturalization Service last week told Miller they would have to check with the State Department and get back to him at the end of the month.

Marie Dewey DeWitt, Charles' mother, was worried about the status of both her sons when she left her husband in 1936 and returned home to Washington and became a schoolteacher.

She went to INS offices in Seattle and inquired what she must do to ensure U.S. citizenship for her children. Now in her 90s, she recalls a Mr. Grey telling her that upon the age of 12, the boys would automatically become citizens.

That seemed to be the case. About that time, Charles DeWitt was issued an identification card saying he was a U.S. citizen, and he grew up believing himself to be one.

So did the Marine Corps. and so did the federal government, when they issued him a secret clearance to inspect military bases.

That makes the case for DeWitt being granted citizenship now even stronger because of the legal principle of estoppel which, Miller explains, says "once you've set out certain positions that other people have relied on over a period of time, you can't reverse those positions to their detriment."

Rather than a lawsuit, Miller says, the real answer is for Congress to amend the law. But because the group of people affected is small and getting smaller all the time—these people are now in their 60s—that could take some time.

It would help, Igleheart said, instead of appealing cases at taxpayers' expense, the State Department would ask Congress to fix the law.

Miller has contacted U.S. Rep. Rod Chandler, R-Bellevue. Igleheart has contacted U.S. Rep. Norman Minetta, D-Calif. Minetta plans to introduce a bill in the next couple of weeks to make the 1934 law extending citizenship to children of both U.S. mothers and fathers retroactive, a staff member said.

"This is a blatantly sexist provision of the law, and it needs to be removed," said Christopher Strobel, legislative assistant to Minetta.

DeWitt would have liked to vote for George Bush, he said, but he's let his voter registration lapse for the time being.

"I feel like I'm an American," he said. "I can't imagine not being an American."

By Mr. BENTSEN (for himself, Mr. DURENBERGER, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. PRYOR, Mr. RIEGLE, Mr. BAUCUS, Mr. BREAUX, Mr. DASCHLE, Mr. MCCAIN, Mr. KASTEN, and Mr. COHEN):

S. 1872. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; to the Committee on Finance.

BETTER ACCESS TO AFFORDABLE HEALTH CARE ACT OF 1991

Mr. BENTSEN. Mr. President, together with Senators DURENBERGER, MITCHELL, ROCKEFELLER, PRYOR, BAUCUS, BREAUX, DASCHLE, RIEGLE, COHEN, MCCAIN, and KASTEN I am today introducing the Better Access to Affordable Health Care Act of 1991.

I am very pleased that Chairman ROSTENKOWSKI of the Ways and Means Committee has agreed to join us in this effort by introducing a companion bill in the House of Representatives.

The American health care system is the best in the world—for those who can afford it. But an increasing number of families are facing loss of some benefits or even all of their health insurance coverage. The deterioration in employer-based health insurance is serious and requires our immediate attention. The Census Bureau recently issued updated estimates. Some 34.6 million Americans had no health insurance protection in 1990, an increase of 1.3 million people from the previous year.

Clearly, the recession contributed to that increase. But the vast majority of the uninsured—80 percent—have jobs or are in families in which at least one person has a job.

Even those workers with health insurance coverage are afraid to change jobs and lose coverage—creating "job lock." The New York Times/CBS poll published late in September reports that 3 in 10 Americans say they or someone in their household have stayed in a job they wanted to leave but feared losing health benefits.

At the same time, health care costs are of growing concern to those who must pay the bills—individuals, business, and Government. National health care spending totaled $675 billion in 1990 and is projected to continue growing at double digit rates. At an April 16 hearing before the Committee on Finance, the President's Budget Director, Richard Darman, projected that health care will increase from 12 percent of the gross national product [GNP] in 1990 to 17 percent of GNP by the end of the decade—a trend he correctly termed "unsustainable."

Solving the dual problems of rising health care costs and lack of access to health insurance protection will require dramatic changes in the overall health care system. A number of proposals for comprehensive reform have been introduced in the Senate. They include a thoughtful proposal offered by the majority leader along with Senators ROCKEFELLER, RIEGLE, and KENNEDY. Senator KERREY has worked hard in offering a different approach to comprehensive reform. I understand that Senator CHAFEE and the Republican Health Task Force are at work on an alternative. In the House, health care reform bills have been introduced by Chairman ROSTENKOWSKI of the Ways and Means Committee, Chairman DINGELL of the Energy and Commerce Committee, and others.

All these proposals deserve careful consideration. And we will continue to hold hearings in the Finance Committee to fully explore approaches for comprehensive reform.

Regardless of the approach taken, enacting comprehensive health care reform will not be easily accomplished, and it will take time. Everyone will be affected in some way, and major structural changes will be made. We in the Congress are ready to begin deliberations. But comprehensive reform can't happen without the President's active participation. Hopefully, we will hear from him soon on this important issue, but so far there's been no sign that the White House wants to work on this—at least until after the election, if then. It's too controversial.

But the millions of Americans who are watching their insurance premiums go up while their coverage is reduced, cannot wait for the President, or for the debate on comprehensive health care reform to conclude. In my own State of Texas, 26 percent of the population is uninsured. And Texas is not unique. We need to take steps to address the problems with our health care system, and we can do so without prejudicing the outcome of the larger debate for comprehensive reform. S. 1872 takes those steps.

The Congressional Budget Office reports that 80 percent of the uninsured are workers or dependents of workers. In over half of these cases, that job is with a business with fewer than 50 employees. Many of the provisions of S. 1872 are designed to improve the availability and affordability of health insurance to small businesses and make it easier for them to offer coverage and allow more working Americans to get insurance.

We can't forget that real people are at the other end of the statistics. Earlier this year, Don Summers, president of Austin Welder & Generator Service, a nine-employee firm, testified before the Finance Committee. His employees had always been able to count on receiving health insurance from the company. But between 1987 and 1990 his firm's health insurance premiums increased more than four times over—despite the fact that the employee deductible rose from $300 to $600. Finally, Austin Welder could no longer afford to provide insurance coverage to those nine workers and their families. No insurance for one worker with a child on the way and others with health needs that must be met. Employees of small businesses across the country are finding themselves in similar predicaments.

S. 1872 will take steps to help ensure that employees of small businesses have access to affordable health insurance.

TAX DEDUCTION FOR SELF-EMPLOYED

S. 1872 would help make health insurance more affordable for small businesses by increasing the tax deduction for health insurance premiums for the self-employed from 25 to 100 percent and making the deduction permanent. This will give small business owners the same tax treatment available to corporations.

SMALL EMPLOYER INSURANCE REFORM

The bill would also provide for reform of the market for health insurance sold to businesses of 2 to 50 employees. This is a critical step toward making health insurance more available and affordable to workers in small business.

Insurers have been competing vigorously to cover only healthy workers—denying coverage for workers and dependents with previous medical conditions, refusing to cover businesses in certain industries and occupations, and for those groups that are offered insurance, canceling coverage once someone

in the group gets sick. Once some insurers started down this path more and more companies joined in for fear of ending up with all the high risk cases that other insurers were turning down.

These practices have created instability in the market for small business health insurance. Business owners are forced to shift coverage frequently as policies are canceled or premium increases rise at rates sometimes double the underlying trend for health insurance which is in excess of 20 percent a year.

At their August meeting in Seattle the National Governors Association made clear their commitment to the need for uniform minimum standards for State health insurance reform while reaffirming their view that States should continue to play a critical role as regulators of the insurance industry. Under S. 1872 such minimum State standards would be developed, with a prominent role for the National Association of Insurance Commissioners.

Those standards would prohibit insurers from excluding individual workers or their dependents from group coverage, and would guarantee that policies be renewable.

Variation in premiums for small employees would be restricted for factors such as health status, claims experience, duration since issue, industry or occupation. The rating bands proposed in S. 1872 are intended to eliminate the worst rating practices exhibited by insurers.

Many of my colleagues would like to see us move to pure community rating so that all small businesses in an area are charged the same premium rates, without regard to health experience, age, sex, or other factors. I don't disagree with the concept behind community rating—insurance should be a mechanism for spreading risk among large populations. I am particularly concerned about the fact that premiums charged for young men—largely because of the costs associated with pregnancy.

But I believe we need to be careful as we take these first steps in stabilizing the small group insurance market. If we make the rating bands too tight, we run the risk of raising premiums for some small businesses already offering insurance to their employees to such an extent that they are priced right out of the market. The impact of tight rating restrictions in combination with the other reforms on price and availability of health insurance to small businesses is not completely predictable.

Therefore, under S. 1872, the initial rating restrictions would apply only to health status, claims experience, industry or occupation and duration of insurance coverage. The General Accounting Office would report to the Congress after 3 years on the impact of the rating restrictions on the price and availability of insurance to small employers. In addition, the report would include the Comptroller General's recommendations regarding the elimination of variation in rates due to health status factors, the age and sex composition of groups and other factors.

Annual increases in premiums would be made more predictable. Premiums for an individual employer could not increase by more than 5-percent above the underlying trend. This requirement would go far toward offering predictability and stability in the market for small business health insurance.

A survey by the National Federation of Independent Business reports that since 1983, small business owners have identified the rising cost of health insurance as the No. 1 problem facing small businesses, and that almost 90 percent of small employers believe that health insurance is becoming prohibitively expensive.

Even with rating reforms, many small businesses will have difficulty affording health insurance unless more affordable insurance is made available to them. Small employers and their employees should not be required to choose only between the most comprehensive insurance protection or none at all. By allowing for variety in benefit design, S. 1872 will make it possible for more small employers to provide some insurance protection tailored to the needs of their employees.

Another approach that has been proposed to make insurance more affordable to small business would require insurers to offer insurance plans that pay providers based on Medicare payment rates. S. 1872 would require the Secretary of Health and Human Services to study the feasibility and impact of going forward with this approach.

"JOB LOCK" AND PORTABILITY OF INSURANCE

It is inequitable when a person who has had health insurance coverage should have to start from scratch every time they change jobs and change health insurance coverage. Preexisting condition exclusions which deny coverage for medical treatment for a year or more can make it impossible for a worker who has a chronic health problem of a dependent child in need of ongoing health treatment to change jobs.

The bill would attack the problem of job lock by ensuring that any individual moving from one job to another would not lose coverage for preexisting conditions. For individuals who had not been previously insured, a one-time preexisting condition exclusion could not be in effect for more than 6 months.

HEALTH CARE COST COMMISSION

A Health Care Cost Commission would be established to advise the President and the Congress on how to tackle high and rising health care costs. The Commission would include representatives of all perspectives in our health care system—individual consumers, large and small businesses, labor organizations, providers and insurers.

The Commission would report annually on trends in health care costs, the impact of efforts underway in the public and private sectors to address the problem, and make recommendations for how to proceed to slow the upward spiral in health care spending. The Commission would be required to specifically address the issue of administrative costs in its first annual report, including the development of uniform reporting of claims and clinical data.

PROMOTING MANAGED CARE

Managed care programs have shown some promise in slowing the rate of growth in health care costs. At the same time, managed care is still an evolving concept, and there are legitimate concerns among health care providers and consumers that managed care programs should be expected to provide for access to necessary service from quality health care providers.

S. 1872 would establish a voluntary Federal certification program for managed care plans and utilization review programs. Those plans and programs meeting requirements for Federal certification would receive special protection from laws that undermine the success of these efforts.

GRANTS TO STATES

S. 1872 would authorize $150 million for each of the next 3 years to provide grants to States for establishing group purchasing programs for small business health insurance.

States could look to a variety of models in developing such programs. For example, with the support of the Robert Wood Johnson Foundation, the State of Florida has established the Florida Health Access Corporation [FHAC]. FHAC negotiates with insurers to provide coverage to small businesses that have not previously provided employee health insurance benefits. In Cleveland, the Council of Smaller Enterprises operates a group purchasing program for 8,000 small businesses. The California Legislature has under consideration a pooled employee approach that would allow employees of enrolled small businesses to choose among alternative health insurance plans.

OUTCOMES RESEARCH

Outcomes research holds promise for improving quality of health care and containing health care costs by identifying the most effective treatment patterns. Under S. 1872 the authorization for outcomes research would be increased from $110 to $175 million in fiscal year 1992, to $225 million in fiscal year 1993, and to $275 million in 1994. New guidelines would be targeted at clinical treatments or conditions that significantly affect national health expenditures.

MEDICARE PREVENTION BENEFITS

Earlier this year, I was joined by Senator ROCKEFELLER and in the House Chairman ROSTENKOWSKI of the Ways and Means Committee in introducing S. 1231, a bill to expand Medicare benefits to improve the package of preventive services currently available to Medicare beneficiaries and to establish mechanisms to promote future progress on health prevention as well. The Congressional Budget Office estimates that over 13 million Medicare enrollees would benefit from the cancer screening and influenza immunization benefits provided for in this bill.

Medicare beneficiaries should have ready access to services that contribute to improved health care through early intervention and treatment. Therefore, I have included the provisions of S. 1231 as part of this bill.

CONCLUSION

The bills Chairman ROSTENKOWSKI and I are introducing today attempt to put forth incremental steps to improve the health care system. My colleagues and I welcome support from other Members in this endeavor. We believe this bill is a strong effort, but it is not perfect. We also welcome suggestions for improvement. In particular, while the bills introduced in the House and the Senate are identical in most respects, it is our hope and expectation that the differences between S. 1872 and its House companion will provide us with the benefit for further discussion of important issues as we proceed with legislation.

S. 1872 should certainly not be construed as an attempt to accomplish comprehensive reform of the health care system. And it will not be my final word on improvements in our health care system.

Preliminary estimates put the total Federal budget cost of this bill at $10 billion for fiscal years 1992 through 1996. The Medicare prevention provisions total $2.6 billion. Increasing the tax deduction for health insurance premiums for the self-employed to 100 percent beginning in 1992 and making it permanent would lower revenue by $7.4 billion for the 5-year period.

While the bill does not include any offset to cover these costs, let me assure my colleagues that any bill reported out of the Committee on Finance will be fully financed. We may not be able to enact all the provisions as introduced, but I believe we should proceed without delay.

Mr. President, I ask unanimous consent that the text of S. 1872 and a summary of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Better Access to Affordable Health Care Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

SEC. 101. PERMANENT INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "100 percent".

(b) PERMANENT DEDUCTION.—Section 162(l) of such Code is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 102. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants in amounts up to $10,000,000 to up to 15 States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for

each of fiscal years 1992, 1993, and 1994, $150,000,000 for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1995, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

SEC. 103. STUDY OF USE OF MEDICARE RATES BY PRIVATE HEALTH INSURANCE PLANS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall study and report to the Congress by no later than January 1, 1993, on the feasibility and desirability of establishing a requirement that insurers offering health insurance plans must make available plans under which payments to health care providers and practitioners are made using medicare payment rules as established under title XVIII of the Social Security Act.

(b) STUDY PROVISIONS.—The study and report under this section shall include an evaluation of—

(1) the applicability of medicare payment rules to services provided to the general population, including any adjustments that might be necessary to achieve general application of these rules;

(2) the potential impact of such requirements on health insurance premiums and on national health care spending;

(3) the potential impact on participation by providers and practitioners in the medicare program and on the health insurance costs of other payers if such a requirement were limited to private health insurance plans sold to small employers; and

(4) the potential impact on participation by providers and practitioners in the medicare program and on the health insurance costs of other payers if such a requirement were applied to all private health insurance plans.

TITLE II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

Subtitle A—Standards and Requirements of Small Employer Health Insurance Reform

SEC. 201. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), and

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1992. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1992. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement, but does not include—

"(1) a self-insured health insurance plan; or

"(2) any of the following offered by an insurer—

"(A) accident only, dental only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) workmen's compensation or similar insurance, or

"(D) automobile medical-payment insurance.

"(b) INSURER AND HEALTH MAINTENANCE ORGANIZATION.—As used in this title:

"(1) INSURER.—The term 'insurer' means any person that offers a health insurance plan to a small employer.

"(2) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' has the meaning given the term 'eligible organization' in section 1876(b) of this Act.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement applicable to all employees that a minimum period of service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a mechanism for guaranteeing the availability of health insurance plans for all small employers in the State, and

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State, and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State, and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"(iv) A mechanism under which the State requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State, shall participate in a program for assigning high-risk groups among all such insurers.

"(C) STATE ADOPTION OF CERTAIN STANDARDS.—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation, or

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)).

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered to a small employer by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, or geography must apply such adjustments consistently across small employers, and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of small employers for each category specified in clause (i).

"(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

"(f) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(g) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"SEC. 2113. (a) BASIC AND STANDARD BENEFIT PACKAGES.—

"(1) IN GENERAL.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) MANAGED CARE OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an insurer offers a managed care plan in a State or a geographic area within a State to employers that are not small employers, the insurer must offer such managed care plan to small employers in the State or geographic area.

"(B) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in a managed care plan if it ceases to enroll any new employer groups in such plan.

"(b) STANDARD BENEFIT PACKAGE.—

"(1) IN GENERAL.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in subparagraph (E)(i);

"(B) inpatient and outpatient physicians' services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in subparagraph (E)(ii);

"(C) diagnostic tests;

"(D) preventive services limited to—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colorectal screening services; and

"(E)(i) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(ii) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(I) is a physician; or

"(II) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(2) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) PREVENTIVE SERVICES.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) EXCEPTIONS.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) LIMITATION ON PREMIUMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) PART-TIME EMPLOYEE EXCEPTED.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that such an employee pay a monthly premium that does not exceed 50 percent of the total monthly premium.

"(5) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the

previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400 per family member and $700 per family; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

"(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

"(i) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

"(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

"(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) a calendar year prior to 1993, $3,000; or

"(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer.

"(c) BASIC BENEFITS PACKAGE.—

"(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, including emergency services;

"(B) inpatient and outpatient physicians' services;

"(C) diagnostic tests;

"(D) preventive services (which may include one or more of the following services)—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well-child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colorectal screening services.

"(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(4) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer.".

Subtitle B—Tax Penalty on Noncomplying Insurers

SEC. 211. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may

waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, and in States which have distinct licensure requirements, a multiple employer welfare arrangement, but does not include—

"(A) a self-insured health insurance plan; or

"(B) any of the following:

"(i) accident only, dental only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) workmen's compensation or similar insurance, or

"(iv) automobile medical-payment insurance.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of such Code (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

Subtitle C—Studies and Reports

SEC. 221. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1995, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, and the number of small employers choosing standard or basic packages; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) RECOMMENDATIONS.—The Comptroller General shall include in the report to Congress under this section recommendations for adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

TITLE III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

SEC. 301. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans), as amended by section 211, is further amended by adding at the end thereof the following new section:

"SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of—

(1) a group health plan to meet the requirements of subsection (e), or

(2) any person to meet the requirements of subsection (f),

with respect to any covered individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured group health multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII or XIX of the Social Security Act, or other health benefit arrangement (including

a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

"(g) DEFINITIONS.—For purposes of this section—

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

TITLE IV—HEALTH CARE COST CONTAINMENT

SEC. 401. ESTABLISHMENT OF HEALTH CARE COST COMMISSION.

(a) IN GENERAL.—There is hereby established a Health Care Cost Commission (in this title referred to as the "Commission"). The Commission shall be composed of 11 members, appointed by the President by and with the advice and consent of the Senate. The membership of the Commission shall include individuals with national recognition for their expertise in health insurance, health economics, health care provider reimbursement, and related fields. In appointing individuals, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, and health care insurers.

(b) TERMS.—Members of the Commission shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year. The term of the Chairman shall be coincident with the term of the President. Individuals appointed to fill a vacancy created in the Commission shall be appointed for the remainder of the term.

(c) DUTIES.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—The Commission shall report annually to the President and the Congress on national health care costs. Such report shall be made by March 30 of each year and shall include information on—

(i) levels and trends in public and private health care spending by type of health care service, geographic region of the country, and public and private sources of payment;

(ii) levels and trends in the cost of private health insurance coverage for individuals and groups;

(iii) sources of high and rising health care costs, including inflation in input prices, demographic changes and the utilization, supply and distribution of health care services; and

(iv) comparative trends in other countries and reasons for any differences from trends in the United States.

(B) ASSESSMENT AND RECOMMENDATIONS.—The report shall also discuss and assess the impact of public and private efforts to reduce growth in health care spending, and shall include recommendations for cost containment efforts.

(2) STUDY OF ADMINISTRATIVE COSTS.—As part of its first annual report, the Commission shall report on the impact of administrative costs on national health spending, and make recommendations as to how these costs could be minimized. The Commission shall, in consultation with health care insurers and providers, recommend a model national uniform claims form and model national reporting standards for clinical and administrative data, and assess the impact of mandating the use of these models on national health care spending.

(3) STANDARDS FOR MANAGED CARE.—The Commission shall make recommendations to the Secretary of Health and Human Services for the development and ongoing review of standards for managed care plans and utilization review programs (as defined under section 2114 of title XXI of the Social Security Act).

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Commission may—

(A) employ and fix compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Commission.

(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.

(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 402. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXI of the Social Security Act, as added by title II of this Act, is amended by adding at the end the following part:

"PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

"FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies provided under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that provides for the financing and delivery of health care services to persons enrolled in such plan through—

"(i) arrangements with selected providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care con-

tractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient enrolled in a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to plan enrollees;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) utilization review procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed; and

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed; and

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for enrollees to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for services provided to enrollees; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for services provided to enrollees on a per-enrollee basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that services be authorized by a primary care physician selected by the enrollee from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.".

SEC. 403. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH.

(a) INITIAL GUIDELINES AND STANDARDS.—Subsection (d) of section 912 of the Public Health Service Act is amended to read as follows:

"(d) INITIAL GUIDELINES AND STANDARDS.—

"(1) IN GENERAL.—Not later than January 1, 1992, the Administrator shall assure the development of an initial set of guidelines as described in subsection (a)(1) that shall include not less than three clinical treatments or conditions that—

"(A) account for a significant portion of national health expenditures;

"(B) have a significant variation in the frequency or the type of treatment provided; or

"(C) otherwise meet the needs and priorities described in this section.

"(2) MENTAL HEALTH SERVICES.—The Administrator, in consultation with the National Institute of Mental Health and mental health providers, shall develop outcomes research and practice parameters for mental health services including at least the diagnosis and treatment of childhood attention deficit syndrome disorders and manic depression.".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993; and

"(C) $275,000,000 for fiscal year 1994."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

TITLE V—MEDICARE PREVENTION BENEFITS

SEC. 501. COVERAGE OF COLORECTAL SCREENING.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS AND SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to screening fecal-occult blood tests provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment amount established for tests performed—

"(i) in 1992 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within 59 months after a previous screening flexible sigmoidoscopy.

"(3) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 1994, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening fecal-occult blood tests and screening flexible sigmoidoscopies based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection, but no such revision shall apply to tests or procedures performed before January 1, 1995.

"(4) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if less, as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a procedure performed—

"(i) in 1992, 120 percent of the payment limit established under paragraph (2)(A); or

"(ii) after 1992, 115 percent of such applicable limit.

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(b) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) of such Act (42 U.S.C. 13951(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(2) Section 1833(h)(1)(A) of such Act (42 U.S.C. 13951(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (3)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) of such Act (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer)".

(4) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests and screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to screening fecal-occult blood tests and screening flexible sigmoidoscopies performed on or after January 1, 1992.

SEC. 502. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) IN GENERAL.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A)—

(A) by striking ", subject to section 4071(b) of the Omnibus Budget Reconciliation Act of 1987,", and

(B) by striking "; and" and inserting a comma;

(2) in subparagraph (B), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) tetanus-diphtheria booster and its administration;".

(b) LIMITATION ON FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 502(b)(4)(A), is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(H) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diphtheria booster, which is administered within the 119 months after a previous tetanus-diphtheria booster;".

(c) CONFORMING AMENDMENT.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 502(b)(4)(B), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to influenza vaccines and tetanus-diphtheria boosters administered on or after January 1, 1992.

SEC. 503. COVERAGE OF WELL-CHILD CARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"WELL-CHILD SERVICES

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by sections 502(b)(4)(A) and 503(b), is amended—

(A) in subparagraph (G), by striking "and" at the end;

(B) in subparagraph (H), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(I) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by sections 502(b)(4)(B) and 503(c), is amended by striking "or (H)" and inserting "(H), or (I)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1992.

SEC. 504. ANNUAL SCREENING MAMMOGRAPHY.

(a) ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 64.—Section 1834(c)(2)(A) of the Social Security Act (42 U.S.C. 1395m(b)(2)(A)) is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to screening mammography performed on or after January 1, 1992.

SEC. 505. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) SITES FOR PROJECT.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) SERVICES COVERED UNDER PROJECTS.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-marrow density and hormone replacement therapy.

(4) Screening services for pregnant women, including ultra-sound and clamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Other services considered appropriate by the Secretary.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1993, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1992.
(2) $4,000,000 for fiscal year 1993.
(3) $5,000,000 for fiscal year 1994.
(4) $5,000,000 for fiscal year 1995.
(5) $6,000,000 for fiscal year 1996.

SEC. 506. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this title, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

SUMMARY OF THE BETTER ACCESS TO AFFORDABLE HEALTH CARE BILL

HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

The tax deduction for health insurance costs of self-employed individuals would be increased permanently from 25 percent to 100 percent beginning in calendar year 1992.

A new grant program would be established to assist up to 15 States in developing small employer health insurance group purchasing programs. $150 million would be authorized for grants up to $10 million per State for fiscal years 1992 through 1994. The funds could be used to finance the development of cooperative arrangements among small businesses who wish to pool resources in purchasing insurance. Funds could be expended for administrative costs including marketing and outreach efforts, negotiations with insurers, and performance of administrative functions such as eligibility screening, claims administration and customer service. The Secretary of HHS would be required to conduct an evaluation of the impact of these programs on the number of uninsured and the price of insurance available to small employers.

The Secretary of HHS would be required to report to the Congress on the feasibility and desirability of requiring acceptance of Medicare payment rates from private insurers covering small employers.

SMALL EMPLOYER HEALTH INSURANCE REFORM

Minimum Federal standards would be established for health insurance sold to small employers, defined as those with 2 to 50 employees working at least 30 hours a week. Insurers could not exclude individuals in a group from coverage, and could not cancel policies due to claims experience or health status.

Variation in premiums for small employers would be restricted for factors such as health status, claims experience, duration since issue, industry or occupation. Rating bands would be established such that the ratio of the highest to lowest premium charged to a small employer with similar demographic characteristics for similar benefits could not exceed 1.8 for the first 3 years the new requirements were in effect (a rating band of plus or minus 20 percent around the average), and lowered to 1.6 thereafter (a rating band of plus or minus 15 percent around the average.)

The General Accounting Office would report to the Congress on the impact of the rating restrictions on the price and availability of insurance to small employers. In addition, the report would include the Comptroller General's recommendations regarding the elimination of variation in rates due to health status factors, the age and sex composition of groups and other factors.

Annual premium increases for small employer health plans would be limited to the underlying trend in health care costs, (as measured by the increase in the lowest rate charged by the insurer) plus 5 percent.

States could choose among several options for guaranteeing availability of insurance to all small employers in the State. These include requiring guaranteed issue to any small employer and establishment of a voluntary reinsurance program, guaranteed issue with mandatory participation in a reinsurance program, and programs that allocate high-risk groups among insurers, with and without opt-out for insurers that guarantee issue.

Insurers offering coverage to small employers would offer at least two benefit packages. The Standard Benefit Package would cover inpatient and outpatient hospital services, physician services, prenatal and well-baby care, well child care, pap smears, mammograms, colorectal screening and limited inpatient and outpatient mental health services.

The Basic Benefit Package would cover inpatient and outpatient hospital services (including emergency services), physician services, and preventive services.

Standards reflecting these requirements would be developed by the National Association of Insurance Commissioners [NAIC] and approved by the Secretary of HHS. If the NAIC does not act promptly the standards would be developed by the Secretary.

Insurers violating standards would be subject to a Federal excise tax equal to 25 percent of premiums received on policies sold to small employers. Insurers in States having a regulatory program approved by the Secretary would be exempt from the tax, as would insurers in other States that are individually certified by the Secretary as meeting the Federal standards.

IMPROVEMENTS IN HEALTH INSURANCE PORTABILITY

An individual with a pre-existing condition who changes jobs without a lapse in insurance coverage of more than 3 months would generally be protected from any pre-existing condition exclusion under the new employer's health plan for those services covered under his or her previous health insurance plan.

In addition, all group health insurance and self-insured employer plans would be prohibited from excluding coverage for pre-existing conditions for more than 6 months. Pre-existing conditions would be defined as those that were diagnosed or treated during the 3 months prior to enrollment.

Insurers or self-insured employers offering health plans not in compliance with these requirements would be required to retroactively cover any illegally excluded services and pay a tax penalty of $100 a day for each violation.

HEALTH CARE COST CONTAINMENT

A program of voluntary Federal certification for managed care plans and utilization programs would be established. States would be prohibited from applying certain laws that restrict the development of managed care plans and utilization review programs to such Federally certified plans. Standards for Federal certification would be developed by the Secretary of HHS, in consultation with the Health Care Cost Containment Commission described below.

A Health Care Cost Commission would be established to advise the Congress and the President on strategies for reducing health care costs. The 11-member Commission would report annually on trends in national health spending. The Commission would also be required to report on the impact of administrative costs on health care spending, with recommendations for minimizing such costs, including development of uniform billing requirements for use by all insurers and providers. The Commission would also advise the Secretary and Congress with respect to the development of a Federal certification process for managed care plans and utilization review programs.

Authorization for outcomes research would be increased to $175 million in FY 1992, to $225 million in FY 1993, and to $275 million in 1994. New guidelines would be targeted at clinical treatments or conditions that significantly affect national health expenditures.

MEDICARE PREVENTION BENEFITS

Medicare benefits would be expended to cover a number of preventive care services including colorectal cancer screening, annual mammography screening, and influenza immunizations.

PRELIMINARY ESTIMATES

[In billions of dollars]

	Fiscal year—					Total
	1992	1993	1994	1995	1996	
Self-employed deduction (revenue loss)	0.8	1.4	1.6	1.7	1.9	7.4
Medicare prevention benefits (outlay increase)	0.3	0.5	0.6	0.6	0.7	2.6
Total	1.1	1.9	2.2	2.3	2.6	10.0

Mr. MITCHELL. Mr. President, I am pleased to join with the chairman of the Senate Finance Committee in cosponsoring legislation which will make reforms in the small group insurance market and give small businesses certain tax advantages in an effort to encourage more employers to provide health insurance to their workers.

Our health care system is in crisis. While nearly 37 million Americans don't have health insurance, the cost of health care to our society continues to soar. It is not enough that we find a way to add those who are uninsured to the existing health care system. We must make fundamental reforms in that system including effective cost containment efforts and insurance market reform.

Senator BENTSEN's bill is a modest first step toward addressing the problem facing millions of working Americans without health insurance. The legislation will begin to eliminate some of the most serious problems facing small businesses and their employees in the purchase of health insurance.

Under Senator BENTSEN's bill, insurers will be prohibited from excluding individuals in a small group from health coverage and could not cancel policies because of claims experience or health problems.

The Bentsen bill will protect persons who change jobs from the risk of losing their health insurance because of preexisting conditions, as is so often the case in the current insurance market.

This legislation also includes a provision to establish a Federal cost containment commission to collect and analyze data on the causes of the rising costs of health care. Clearly, this is only a first step toward meaningful cost containment. More must be done.

Over the last decade a variety of cost containment strategies have been attempted by both the Government and private sectors. These strategies have had mixed results, but overall there appears to have been little impact on the growth in total health spending.

In our effort to contain health care costs, we must have better information about what we as a nation want to pay for. We must assure that each dollar spent gives us its best return. I believe that we can get more value for the over $600 billion we spend each year on health care.

It is estimated that between 10 to 30 percent of treatment for illnesses provided by physicians is either unnecessary or ineffective.

The outcomes research initiatives being conducted through the Agency for Health Care Policy and Research will improve the quality of care while reducing or eliminating unnecessary or ineffective treatments. I am pleased that Senator BENTSEN's legislation includes an expanded effort for outcomes research and the development of practice guidelines, similar to the provision contained in S. 1227, comprehensive health care legislation I introduced earlier this year.

While I support Senator BENTSEN's legislation as an important incremental step toward correcting some of the most egregious problems in our health care system, I believe that comprehensive reform of the system is needed. I intend to work for the enactment of comprehensive health care reform legislation during this Congress.

Earlier this year I joined with a number of my colleagues in introducing legislation to reform the Nation's health care system. Our bill, S. 1227, guarantees access to health care for all Americans and includes serious cost containment strategies.

Access to care and the soaring costs of health care must be addressed as part of a comprehensive proposal. The loss of health insurance does not only effect the poor and the unemployed. An increasing number of middle-income, working Americans and their children have no health insurance—or are a pink slip away from losing their health insurance.

Our Nation's health care system is on the critical list. If we do not work together in good faith to control the soaring costs of care and to provide access to care for millions of Americans now uncovered, we will all fall victim to the collapse of the system.

Reforming the health care system will be difficult. While most of us believe there is a serious problem, few can agree on the solution. A perfect solution does not exist. Some argue that the United States should adopt a Canadian model. Others argue that tax incentives to businesses with no requirement to provide coverage is the answer.

I believe the time to act is now. Health care reform is critical if we are going to assure that all Americans are ready for the challenges of the 21st century. Children must be healthy and alert in order to learn. As our citizens live longer we must assure that their health is good and their lives are productive.

I look forward to working with Senator BENTSEN and other colleagues in the House and Senate to enact meaningful health care reform in this Congress. I challenge the Bush administration to work with the Congress to accomplish this goal which is vital for the future of our Nation.

Mr. PRYOR. Mr. President, today I am pleased to join the esteemed chair-

man of the Finance Committee, Senator LLOYD BENTSEN, in introducing the Better Access to Affordable Health Care Act of 1991. In introducing this legislation, Chairman BENTSEN once again demonstrates his deep concern about, and commitment to, addressing the health care crisis that this Nation faces.

Before commenting on the specifics of the bill and the reasons for my cosponsorship, I believe it is also important to recognize the leadership of a number of our colleagues in the health care arena. No list of health leaders would be complete without the majority leader, Senator GEORGE MITCHELL. Despite the overwhelming demands on his time, Senator MITCHELL has not hesitated to roll up his sleeves and take on the extraordinarily difficult challenge of health care reform.

Like the majority leader, Senator JAY ROCKEFELLER—the former chairman of the Pepper Commission and current chairman of the Finance Subcommittee on Medicare and Long-Term Care—is a man whose commitment to solving our intimidating health care problems is unsurpassed. As a member of the Pepper Commission, I not only had the honor of serving under Senator ROCKEFELLER, but I also had the privilege of working with three other giants in the health care debate: Senator KENNEDY, Senator DURENBERGER and the late Senator JOHN HEINZ. Senator RIEGLE must be singled out as well for his tremendous leadership as chairman of the Finance Subcommittee on Health for Families and the Uninsured, and as one of the driving forces behind the introduction of S. 1227, Health America: Affordable Health Care for All Americans.

Mr. President, jumping into the health care debate is like diving into the ocean for your first swim. You are leery of the water's temperature, worried about the threatening waves, and afraid of the unknown creatures and dangerous undercurrent lurking below. It is for this reason that I believe my colleagues who I have previously mentioned, as well as Senators BAUCUS, DASCHLE, KERREY, METZENBAUM, SIMON, and others who have made health care reform a high priority, deserve great praise and commendation for having the courage and the caring to move this debate forward.

Mr. President, no one disputes the fact that our health care system is chronically, if not terminally, ill. We are all starting to memorialize the intimidating statistics. There is no other Nation in the world that spends as much of its gross national product on health care as the United States. And, despite these fact we are well on our way to spending $1 trillion a year—almost $700 billion this year—on health care, 33 million Americans—and 20 percent of all Arkansans—live without health insurance.

While our unprecedented investment in dollars provides is with arguably the highest quality and most technologically advanced health care in the world, the only people who have access to this care are those who can afford insurance to pay for it. If costs keep soaring as they have been, spending on health care will increase from $662 billion in 1990 to an almost unbelievable $1.6 trillion by the turn of the century. During the same period of time, the percentage of our gross national product allocated to health care will increase from 12 percent to a staggering 16.4 percent. As a result, we have every reason to believe and fear that fewer and fewer people will be able to afford the health care and insurance protection they need.

Insurance companies, responding to these costs and attempting to limit their liability, have turned more and more to underwriting and marketing practices that discriminate against small businesses and individuals. As a result, individuals and small businesses seeking coverage are priced out of the market or sometimes excluded at any price. Denial of coverage is even a problem for people who have had insurance for years and are simply changing jobs. These are just two examples of how flawed our health care system has become.

I often say that the Federal Government waits until it has a crisis on its hands before responding to difficult issues. The day has finally come when everyone—individuals and their families, consumer advocates, small and large businesses, unions, health care providers, and insurers—agrees that our health care system has reached that crisis stage. Unfortunately, while we have universal agreement that we must reform the system, there is no such agreement on how to proceed.

Mr. President, the lack of consensus and the fact that it will be extraordinarily difficult to reform the health care system is not excuse for not trying. While it has become clear that the widely varying approaches and interests will make it impossible to overhaul the system this year, we can take important incremental steps toward that goal if we make progress on those issues in which there appears to be the most agreement. The Better Access to Affordable Health Care Act of 1991 does just that.

When I served on the Pepper Commission, Republican and Democratic Members alike seemed to agree that we should reform the small business insurance market, provide insurance portability protections for persons changing jobs, develop minimum benefit plans designated to preempt State mandates, increase the tax deduction for the self-employed from 25 to 100 percent, protect true managed care initiatives from antimanaged care laws, and provide more preventive health care services. The legislation we are introducing today incorporates provisions that address all of these priority items. Moreover, by establishing a health care cost commission, the Better Access to Affordable Health Care Act begins to address the issue driving the health care reform debate—finding ways to contain health care costs. Taken in combination, Chairmam BENTSEN'S proposed reforms are significant, meaningful, and more than worthy of serious consideration.

Despite these important provisions, the legislation we are introducing today is not perfect. Senator BENTSEN would be the first to acknowledge this. I am particularly concerned about the adequacy of its small business insurance reforms, its improved but still limited protections for the self-employed, the appropriateness of its managed care definition and protections, and its lack of more meaningful cost containment provisions. And, in my capacity as chairman of the Special Committee on Aging, I believe that we should give serious consideration to incorporating private long-term care insurance consumer protections in any package of insurance market reforms.

Further, within the context of these incremental reform efforts, I believe we can take additional important steps toward containing health care costs and, as a result, expanding access. We could reduce billions of dollars a year alone in unnecessary spending if we could develop more effective ways to address the fraud and abuse that is all too prevalent in our health care industry. We could save billions more if we could get a handle on overly burdensome and duplicative paperwork requirements. Further, where we are overpaying health care providers, suppliers and manufacturers—and in some cases underpaying others—we must take actions to develop more rational reimbursement systems. As many of my colleagues know, I have already exhibited my willingness to confront the prescription drug manufacturing industry in this area. And, where there are other abuses, I do not believe we should hesitate to take on other health care industry representatives as well.

Having said this, I am cosponsoring this legislation because I know that Chairman BENTSEN is more than open to suggestions to strengthen this bill. In fact, by introducing this legislation, he is explicitly soliciting comments. Like Senator BENTSEN, I am looking forward to receiving advice from all interested parties inside and outside the Washington, DC, beltway. It is clear we could benefit from new ideas.

Mr. President, in supporting this legislation, no one is sending the message that we have given up on comprehensive reform. I have simply concluded that taking some steps forward is preferable to taking no steps at all.

The Better Access to Affordable Health Care Act provides us with a

solid foundation onto which we can build. We owe a debt of gratitude to Chairman BENTSEN for developing this legislation and giving a needed shot in the arm to the health care reform debate.

It is my sincere hope that President Bush will take the bill we are introducing today, as well as any other health care reform initiatives that have been or will be introduced, as an invitation to join us in responding to the health care crisis confronting this Nation. America is waiting for and demanding his and our leadership in this area. In that spirit, I urge all of my colleagues to join Senator BENTSEN and those of us cosponsoring this legislation in this challenging but essential undertaking.

Mr. DURENBERGER. Mr. President, I am pleased to rise today to join the distinguished chairman of the Finance Committee in introducing the Better Access to Affordable Health Care Act. This is a first step toward making this a healthier nation and I urge all my colleagues to join us in this step.

Ways and Means Chairman DAN ROSTENKOWSKI is introducing a somewhat similar bill on the House side today. I want to thank him and Chairman BENTSEN for incorporating many of the ideas and specific provisions I developed in S. 700, the American Health Security Act, and in S. 89, legislation I have introduced that provides full deductibility for health premiums of the self-employed.

Mr. President, 1 year ago almost to the day, I introduced S. 3260, the Small Employer Health Benefit Reform Act. My goal was to introduce greater equity and stability in the market for small group health insurance through a set of minimum Federal standards. I subsequently re-introduced that legislation on March 20, 1991 as S. 700, the American Health Security Act.

I am extremely pleased that much of Better Access to Affordable Health Care Act is patterned after S. 700. The bill my friend from Texas and I are introducing today will establish minimum standards for health insurance sold to companies of 2 to 50 full-time employees. Insurers in this market will no longer be able to exclude individuals in a group from coverage or cancel policies due to claims experience or health status.

As in S. 700, this bill will significantly limit the variation in premium rates between small employers. It will also constrain annual premium increases for small group health plans to the underlying trend in health care costs, plus 5 percent.

States will be required to guarantee the availability of insurance to all small employers in the State, but they will have flexibility on how best to do so.

Insurers participating in the small group market will be required to offer two standard health plans. The specifics of these plans differ from those included in S. 700, but the goal is the same: to make less expensive coverage available to small employers. Finally, up to 15 States will be given grants of up to $10 million each to finance the development of insurance pooling arrangements among small businesses.

Mr. President, the benefits of this legislation are not restricted to the employees of small companies. For the self-employed, this bill will permanently extend the tax deductibility of health insurance, from 25 percent to 100 percent. I have long advocated this change, most recently in S. 89.

An exciting feature of this bill for many hard-pressed families is the portability requirement dealing with preexisting conditions. This bill ensures that employees will no longer be locked into a particular place of employment by a pre-existing health condition. So long as coverage does not lapse for more than 3 months, group health insurance—including self-insured plans—may not impose a pre-existing condition exclusion more than once for the same condition. Health problems that were diagnosed or treated during the previous 3 months cannot be excluded from coverage for more than a single 6-month period.

Mr. President, the real challenge we face in trying to expand access to health insurance coverage to all Americans is controlling the cost of health care. Our bill will establish a national commission—with members appointed by the President and confirmed by the Senate—to advise Congress and the President on strategies for reducing health care costs.

In addition, more funding will be allocated for research on health outcomes, targeted specifically to treatments for conditions that significantly affect national health expenditures. Measures are also included to encourage further expansion of managed care plans.

I would say at this point that I do have a serious problem with one particular section of Chairman ROSTENKOWSKI's bill. In an effort to control prices charged by medical providers, he recommends that by 1994 we put in place a system that pays all providers the same price for all services. This is not a proposal I can support.

Mr. President, it was my privilege to serve as a vice-chairman of the U.S. Bipartisan Commission on Comprehensive Health Care—the Pepper Commission. During our many meetings and public hearings, we saw graphic examples of the failures in our current system of financing health care. We heard devastating testimony from uninsured people.

These were not all poor people, Mr. President. Many of them were employed and would be considered middle class by today's standards. At least they would have been had their medical expenses not pushed them to the brink of poverty.

Why are these middle class Americans uninsured? There are many reasons. Many worked for businesses—usually small ones—that either did not other, or had ceased to offer, health benefits. While they wanted to buy insurance to protect their families, they either could not afford it or they were denied coverage due to some pre-existing health condition. Some were medically uninsurable. Some were so seriously ill that their medical expenses had exceeded their health plan limits, and they were denied additional coverage.

Take the case of Kurt Homan and his son Lee, from Plymouth, MN. On February 23, 1988, Lee was diagnosed with leukemia. Because Kurt had recently changed jobs, the diagnosis came just 5 days prior to the effective date of health insurance benefits that he had signed his family up under.

Consequently, private insurance has not been available to pay for the several hundreds of thousands of dollars in medical expenses incurred by Lee since his diagnosis.

Mr. President, access to health care in America should not depend on where you work. That is just not right. But each day that passes, that's becoming true across the country.

American workers rely on the private health insurance market for protection from the spiraling cost of getting sick in America.

For employees of larger companies this financing system works pretty well. Health insurance protection is relatively affordable and, in general, no one is denied coverage because of their health status.

However, for people who are employed by companies with fewer than 50 workers—the fastest growing segment of the labor market—the private health insurance market is a dismal failure. And we are not talking about just a few workers here. This group amounts to over half the work force in some States. In Minnesota 40 percent of the work force works for firms of 50 employees or fewer. That's 750,000 workers. Small business, by and large, is where America works. That is why this bill is so urgently needed and why it can have such a dramatic impact.

Small employers seeking to purchase coverage for their workers are forced to choose among a confusing array of very expensive products. Large employers have no trouble finding coverage. In addition, they have the option to self-insure if they desire and thereby escape costly state-mandated benefits in their health plans. Obviously, self-insurance is not a realistic option for employers of fewer than 50.

To make matters worse, insurers engage in rating and coverage practices that introduce great inequity and instability into the health insurance market for small businesses.

Mr. President, the current regulatory framework for health insurance is weak and inconsistent across States. Under it insurers may refuse to sell policies to anyone and can cancel policies unilaterally. They can selectively deny or restrict coverage for specific employees or an employee's dependent because of a preexisting health condition, or charge exorbitant risk premiums.

Small group health insurers often low ball the initial premiums offered to an employer to get the business, and shortly thereafter raise the premiums by huge amounts. They also selectively market to younger, healthier groups.

This practice—which certainly has no place in an industry that is supposed to be in the business of insuring risks—is known as creaming, or cherry picking. Together with the other practices I have just described, creaming results in tremendous instability and turnover among small employers seeking to obtain more affordable coverage.

Mr. President, let me bring this down to ground level by talking about the experience of several firms in Blaine, Fridley and Anoka, MN, prosperous communities north and west of the Twin Cities, within minutes of each other.

An accountant with a small firm watched his premium go up 30 percent 1 year, 50 percent the next, putting the price out of reach.

A beauty shop with nine employees cannot get any health insurance because they do not have the minimum number to qualify as a group.

A sporting goods store with three employees: no group insurance available, individual rates prohibitively expensive.

An advertising company watches its premiums climb year after year and then gets canceled: no notice, no explanation.

These are just 20 examples of hard-working people, like people we all do business with everyday, who are victims of this system. Multiply this by thousands businesses and millions of workers nationwide and you have an idea what we are up against.

Mr. President, the job of reforming the American health care system will be a huge undertaking. I believe the majority leader spoke to that earlier today. We have 35 million uninsured. We have health care costs climbing at a rate that is undermining the fiscal health of businesses, government, and families alike. We have a health care delivery system that is inefficient and does not respond to many of our basic needs.

But this is where we begin. Insurance reform is the key first step toward a fairer, less inflationary and more efficient health care system.

There will be some, Mr. President, who will shy away from this proposal because it is not "comprehensive" enough. Democrats may think passage of this bill slows down their larger plans. Republicans may hold back because they want to see the President's plan, where they have one of their own. To all of them I say "How are we ever going to agree on the whole if we cannot agree on any of the part?"

This bill is a concrete step we can take this year. I hope we will not succumb to the legislative disease of making the good the enemy of the best.

Mr. President, there is bipartisan support in both houses for virtually all of the provisions of this legislation. Chairmen BENTSEN and ROSTENKOWSKI have given us a golden opportunity to begin a course toward a healthier America.

Let us put aside our party labels and our presidential politics and do something for people who need help.

Let us embark together toward a healthier future of our people with this legislation.

Mr. RIEGLE. Mr. President, I am pleased to be an original cosponsor of S. 1872, a bill introduced by the distinguished chairman of the Finance Committee, my colleague, Senator BENTSEN. The legislation is a first step toward comprehensive reform of the health care system which is desperately needed in this country. Together with majority leader MITCHELL and Senators ROCKEFELLER, KENNEDY, and many others, I will continue to do all I can to enact comprehensive reform of our health care system.

It is increasingly clear that the problems of our current health care system affect all of us—those with insurance and the growing number of people without health care coverage. If we don't do something soon to solve the problems of our current system, more people will suffer.

We now know that even more people, 1.3 million, lost their health care coverage last year, bringing the total number of almost 35 million people without coverage. In addition, almost 30 percent of Americans said they or a family member lacked health insurance at least temporarily.

At the same time, high health care costs are having a devastating impact on the health care system. Those who do have health insurance are finding their rates rising sharply and their coverage being reduced by rising deductibles, copayments, and diminished benefits. Hospitals, emergency rooms, and trauma centers are closing, and doctors are finding it harder to treat a growing number of low-income people because of inadequate Medicaid payments or no payments at all for uninsured people. High health care costs hurt our country as a whole by making it harder for our industries to compete in the world market. Chrysler pays 700 dollars in health care costs for each car it produces, 300 to 500 dollars more than its foreign competitors.

We need to continue to press forward with a comprehensive reform of the health care system which addresses the interrelated problems of ever-rising health care costs and lack of any health care coverage for tens of millions of people. That is the goal of HealthAmerica, S. 1227, the bill I introduced on June 5, 1991 with Senators MITCHELL, ROCKEFELLER, and KENNEDY.

Under HealthAmerica, we build on the strengths of our existing private and public health care system. We ask employers to provide a basic health care package of benefits for their employees and dependents. We create a new public health insurance program, called AmeriCare, for anyone who does not directly receive health insurance through an employer. One of the most significant aspects of our proposal is the cost reduction program. HealthAmerica proposes a number of cost-cutting measures that would reduce unnecessary care, decrease administrative costs, and would limit unrestrained price and volume increases of health care services. By matching cost-saving reforms with broadened coverage, we can achieve needed efficiencies throughout the health care system.

I view HealthAmerica as a starting point and held hearings in September to solicit input from interested parties on how we can improve HealthAmerica. I understand that Senator BENTSEN will also be holding hearings on proposals, including HealthAmerica, later this fall and I believe all of these hearings are important to build a consensus on reforming the health care system.

Mr. President, I am very pleased that Senator BENTSEN's bill addresses two key areas—help for small businesses and cost containment—in ways that are consistent with our HealthAmerica legislation and that will lay down the groundwork for further efforts in these areas. But I believe we must go farther in these areas and I believe that HealthAmerica is a blueprint for further action on comprehensive health care reform. I do not support every provision in this legislation and I will be working with the distinguished chairman on constructive modifications to the legislation.

Under the Better Access for Affordable Health Care Act, as well as our HealthAmerica Act, the tax deduction for health insurance costs for self-employed people would increase from 25 to 100 percent. Both bills also reform the insurance market for small businesses. Most businesses do provide health care coverage for their workers or would like to, but health insurance coverage is currently unaffordable for many small businesses. These provisions will give small businesses an opportunity to purchase affordable, needed health care services for their workers.

In addition, S. 1872 has provisions that begin the process for ensuring the

availability of cost-effective managed care systems and also provides further movement in the area of cost containment. I especially view the Commission as a first step towards the entity we establish in HealthAmerica, the Federal Health Expenditure Board, that would eventually be the vehicle for substantially controlling health care costs.

In Michigan, close to 1 million people have no insurance coverage, 300,000 are children. So, we must not get lost in the details or politics and lose sight of the fact that this is an urgent issue facing our people. Therefore, I cosponsor S. 1872 with these thoughts in mind and with the determination to continue to move forward and enact a comprehensive national health care program. It's my hope that the momentum for change will continue to grow.

Mr. President, it's been over 2 years since President Bush established a task force to study these issues and develop recommendations, but still there is no plan. I urge the administration to come forward with a plan before the 1992 Presidential election because we need the President's leadership on this issue.

More than ever before, this country needs a health care system that guarantees access to affordable health care for all Americans. I commend Chairman BENTSEN for his efforts in this area and for his recognition of the need to comprehensively reform the health care system.

Mr. MCCAIN. Mr. President, it is with pleasure that I join my colleague from Texas, the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, in introducing the Better Access to Affordable Health Care Act of 1991.

Mr. President, we are in the throes of a health crisis in this country.

Health care costs continue to rise at phenomenal rates—with health care now consuming some 12.2 percent of our gross national product. Last year, we spent $666 billion on health care. This year, health spending is projected to rise to $750 billion. There appears to be little relief in sight.

Not only is this beginning to affect America's competitiveness with other countries, it has—among other things—priced many small businesses right out of the health insurance market. And, Mr. President, small businesses are the core of our Nation's economy.

Today, of the 32 to 37 million Americans without health insurance, 70 to 80 percent work—or are the dependents of those who work. The vast majority of these are employees of small businesses. Mr. President, many small businesses in Arizona have told me that if they did not drop their health insurance, they were going to have to close their doors—what a no win situation. We all lose—the employer, the employee, and the taxpayer.

Simplistically, some in Congress believe the way to solve this uninsured problem is to mandate that small businesses provide their employees with health insurance. In my view, such thinking demonstrates a failure to understand the issue. In fact, such proposals will only exacerbate this critical problem. Most of the small businesses don't offer health insurance because they can't afford it, not because they don't care about their employees.

I believe making real progress in addressing this aspect of the health care crisis requires that policymakers confront four main issues. In short, any legislation must provide employees with the coverage they need, give small firms affordable options with which to provide that coverage, help insurers to better cope with rising health care costs, and—through private sector solutions—reduce the health cost drain on our government resources.

Over the course of this year, Senator DURENBERGER and I have offered a package of four bills in the Senate which take this issue head on. Rather than mandating coverage, or creating expensive new programs, this package of bills addresses the problem of affordability and accessibility by creating new and efficient coverage options both for the uninsured and insurers.

In short, this package of bills does several things.

First, it corrects a longstanding inequity between small and large businesses by making permanent the deductibility of health insurance premiums for self-employed individuals, and boosting the percentage of deductibility from 25 percent to 100 percent.

Second, it assists small businesses in the purchase of insurance by providing them with less expensive alternatives to existing insurance plans, places certain limits on premium increases, places limits on preexisting condition coverage restrictions, and guarantees renewability of policies that haven't been legitimately terminated for cause.

And, third, it allows small businesses to form a pool for the purpose of purchasing health insurance. Such a concept has been in force in Cleveland, OH for a number of years now. Those businesses participating in this program from 1984 to 1990 only saw a 34-percent increase in their health insurance rates, while those small businesses that didn't participate saw a 176-percent rate increase. The cost savings enabled approximately 2,000 small employers in the Cleveland area to offer employees health insurance that could not afford to do so before joining this program.

I am pleased that the chairman of the Finance Committee has included the thrust of our proposals in his legislation. Of course, Senator BENTSEN'S bill goes beyond the proposals I have just discussed, to address a number of other critical issues related to access of affordable health care.

First, it offers what I believe to be a very appropriate solution to the critical issue of joblock. Mr. President, the fact that individuals with preexisting conditions are unable to change jobs for fear that their new employer's insurance policy will not cover them as a result of their condition is a disgrace. This issue must be addressed, and I commend the chairman of the Finance Committee for his thoughtful approach to this critical issue.

Second, the legislation addresses the need to get a handle on the increasing percentage of the gross national product that is consumed by health care by creating a Health Care Cost Commission to monitor and report on annual trends in national health spending. Among the responsibilities of the Commission is to review the impact of administrative costs on health care spending and make recommendations for minimizing such costs, and the development of uniform billing requirements for use by all insurers and providers.

Third, it focuses attention on the issue of managed care. As a number of large businesses, and Arizona's Medicaid Program, have been demonstrating—managed care programs can hold down health care costs. The legislation would prohibit States from developing laws to restrict the development of managed care plans. I firmly believe that one of the solutions to holding down the growth in health care costs is increased use of managed care. As such, we should enact policies to encourage development and use of such plans, not discourage them.

And, fourth, the legislation would expand the coverage of a number of preventative services under Medicare. I applaud the chairman for including these benefits, many of which are included in separate bills he and I introduced earlier this year.

Mr. President, our Nation is indeed facing a health care crisis. While this legislation is not the magic bullet that will resolve all the issues that need to be addressed, it is a major step in the right direction.

Some may say this bill doesn't go far enough. I agree, it doesn't—at least with regard to the reform that is ultimately needed. But, Mr. President, going farther than this at this point would be foolish. There is no consensus yet among the American people over what ought to be done in the way of broad reform. The choices are complex, and each one carries its own set of tradeoffs. Thus, I believe it is imperative that there be consensus before we move forward with a plan to institute broad reform. If we do not, Mr. President, we risk the same kind of reaction that we got from the seniors on the Medicare Catastrophic Coverage Act.

We need to heed the lesson of the Medicare Catastrophic Coverage Act and remember that a dialog with the American people is critical before we act. This proposal heeds that lesson.

Broad reform will come, but in the meantime we cannot wait to enact the proposals that are contained in this legislation. We have to begin to address the uninsured problem, prevent "joblock" due to preexisting conditions, increase the use of managed care, learn more about why health care continues to consume more and more of our GNP, and increase access to preventive health services—which is exactly what this proposal does.

Mr. President, in conclusion, I would like to thank the chairman of the Finance Committee for incorporating the small business insurance reform proposals Senator DURENBERGER and I have introduced, and commend him for his thoughful approach to this legislation. I am pleased to be a sponsor, and I look forward to working with him to see that this legislation is enacted as soon as possible.

Mr. BAUCUS. Mr. President, I am pleased to rise today with my colleagues Senators BENTSEN, MITCHELL, DURENBERGER, and others to introduce the Better Access for Affordable Health Act of 1991.

This legislation addresses one of the most pressing problems we face now as a nation: the increasing difficulty of obtaining health insurance for many people.

Health insurance has become too expensive, and the price climbs higher every year. The practices of some insurers have made it even worse, especially in the small group market. Some people are always excluded from coverage because of a health condition. Some groups are refused coverage because they're not good risks. There are problems for those who can get insurance, as well. It's a growing administrative burden, with all the required paperwork, both for families and for employers.

But the worst part is, many people just can't get insurance. Period.

More than 140,000 Montanans—almost 18 percent of my State's citizens—have no health insurance.

Many of those people are children. Most of the remainder are working people who can't get insurance at work.

They can't get insurance either because they can't afford it, or because it's not offered as a benefit through their workplace.

There has been a debate going on about how to reform our health care system. I believe it needs major reform, and I have been studying ways to do that.

But reform will take time. And in the meantime we need to do what we can, quickly, to improve the situation.

This legislation is a good place to start.

A disproportionate amount of the health insurance problem has fallen on small business. It has been estimated that health insurance costs for small businesses are between 10 and 40 percent higher than those of large corporations.

My State is an overwhelmingly small business State. Close to half of all jobs in Montana are in businesses with 4 or fewer employees.

The bill we are offering today will help to make insurance more affordable to the self-employed and to small businesses.

It will help the self-employed by increasing their health insurance tax deduction from 25 percent to 100 percent, and make it permanent. It prohibits insurance companies from only covering the healthiest people, and from excluding people with health problems from coverage by their policies. It will stop insurers from overcharging small business customers. It protects small businesses against getting their insurance canceled. And it will set minimum Federal standards for health insurance sold to small business.

This legislation will not solve all of our health care problems. But it addresses a major problem, and it will help.

There are those who will be displeased with this legislation because it does not go far enough. I understand that point of view, and I certainly agree it does not go far enough.

No question about it, we need fundamental health care reform in this country. Twelve percent of our GNP is health spending, and a significant portion of our citizens get little or no health care because they can't afford it.

That's not right, and we should not be satisfied with that.

We all need to be working for broad reforms. But we are far from a consensus on how to do that.

When I was on the Pepper Commission I voted against the Commission's final health care recommendation: to require all businesses to provide health insurance for their employees. I have the greatest respect for the commission chairman, Senator ROCKEFELLER, and the other Commissioners. But I didn't like the idea of mandates then, and I don't like it now.

I believe that most small businesses do want to get their workers health insurance. And in fact most of them do. Those that don't, just can't afford it. Or they don't have the resources to spend the time that it takes to understand and choose among the hundreds of policies, some of which are good and some bad.

We need to help small business provide insurance. They're at a disadvantage now, and we need to help level the playing field.

This legislation does that. I look forward to working with Chairman BENTSEN on this proposal, and I urge my colleagues to support it.

By Mr. KOHL:

S. 1874. A bill to establish a Federal Facilities Energy Efficiency Bank to improve energy efficiency in federally owned and leased facilities, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL ENERGY EFFICIENCY BANK ESTABLISHMENT ACT

• Mr. KOHL. Mr. President, I rise today to introduce legislation entitled the Federal Energy Efficiency Bank Establishment Act of 1991. The purpose of this legislation is to provide a stable, long-term source of funding for energy efficiency projects throughout the Federal Government. We all hear a lot of talk about making the Federal Government run like a business, but we seldom see real action to back those words. This bill is intended to help the Federal Government make business-like investments which will conserve energy, save money, and protect the environment.

The need for this legislation is clear. Despite growing dependence on foreign sources of energy, the Federal Government reduced spending for energy conservation measures throughout the 1980's. Federal facilities continued to consume more and more energy, yet there were no sustained programs to invest in systems to combat this trend. In 1990, the Federal Government invested less than $50 million on energy conservation measures, compared to over $250 annually during the late 1970's.

Against this background, President Bush signed an Executive order on April 17, 1991, that mandates new energy conservation measures in Federal facilities. The Executive order directs all Federal agencies to reduce overall energy consumption in Federal buildings and facilities by 20 percent by the year 2000. If accomplished, this would save the American taxpayer up to $800 million in annual energy costs. It would cut Federal consumption by up to the equivalent of 100,000 barrels of oil per day. This would improve our environment, our balance of trade, and our national security.

But none of this will miraculously come to fruition, simply by virtue of the President's Executive order. The administration must back its policy pronouncements with real dollars for investment in energy efficiency projects. Without significant funding, the administration will not meet the goals set forth by the President. The Executive order alone cannot do the job—it requires capital.

I came to the Senate from a business background. In business, I would make the capital investments if the long-term paybacks were positive. Unfortunately, the Federal Government does not traditionally take this approach.

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Long-term investments are deferred because we don't have the capital, even if the long-term paybacks are significant. There is no mechanism to properly finance long-term projects that any rational businessman would undertake.

Mr. President, my bill will help fill this gap. It creates a bank that can be used to fund capital investments in energy conservation systems. In this way, the Department of Energy can provide moneys to agencies throughout the Government for energy conservation investments.

Every agency would be required to deposit into the bank a fixed percentage of its energy budget. This would serve the goal of energy conservation in two ways. First, it would provide needed revenues for the bank. Second, it would give agencies an incentive to reduce energy expenditures.

The Department of Energy would then loan funds from the bank to agencies for the purchase of energy conservation systems. The agencies would repay the loans out of the savings generated from the newly installed systems. The Secretary would establish, by regulation, the types of investments eligible for bank financing. In this way, only proven technologies with definite paybacks would be eligible for support. The bill further requires that energy measurement and control systems be included for funding, so that agencies can intelligently understand their energy consumption and can manage their systems in a way to maximize savings.

This bill is actually quite simple. It puts in place a financing mechanism not unlike what is used in the private sector. It will create a fund for energy conservation investments that will take advantage of the long-term savings potential offered by such investments. It will provide the dollars required to make the Executive order a reality.

Mr. President, in closing I would like to thank a company in my State that assisted me in the preparation of this bill. Johnson Controls is the largest public company in Wisconsin. As a maker of energy conservation systems, Johnson has provided me with additional real world insights that have helped me in drafting this bill. I appreciate their efforts as well as their willingness to get involved in this public policy issue. Their leadership is to be commended.

Mr. President, I ask unanimous consent that the full text of the bill be printed in full in the RECORD. I urge my colleagues to support this bill and will push for its early enactment.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Efficiency Bank Establishment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) energy conservation is a cornerstone of national energy security policy;

(2) the Federal Government is the largest consumer of energy in the economy of the United States;

(3) numerous opportunities exist for significant energy cost savings within the Federal Government;

(4) on April 17, 1991, the President signed Executive Order No. 12759 which mandated energy savings by Federal agencies; and

(5) to achieve the energy savings required by the Executive Order the Federal Government must make significant investments in energy savings systems and products, including energy management control systems.

(b) PURPOSE.—The purpose of this Act is to promote energy conservation investments in Federal facilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" means—

(A) an executive agency as defined under section 105 of title 5, United States Code;

(B) the United States Postal Service; and

(C) any agency of the judicial branch of Government.

(2) BANK.—The term "Bank" means the Federal Facilities Energy Efficiency Bank established in section 4.

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy, unless otherwise provided.

(4) TOTAL UTILITY PAYMENTS.—The term "total utility payments" means payments made for electricity and natural gas.

SEC. 4. ESTABLISHMENT OF BANK.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund, to be known as the Federal Facilities Energy Efficiency bank, consisting of—

(1) such amounts as are transferred to the Bank under subsection (b); and

(2) any interest earned on investment of amounts in the Bank under subsection (c).

(b) TRANSFERS TO BANK.—

(1) IN GENERAL.—In fiscal year 1993 and in each subsequent fiscal year, each agency shall transfer to the Secretary of the Treasury for deposit into the Bank an amount equal to the percentage determined in accordance with paragraph (2) multiplied by the total utility payments paid by the agency in the preceding fiscal year (including amounts included in agency rental payments that reimburse landlords for utility costs).

(2) PERCENTAGE.—

(A) DETERMINATION.—Subject to subparagraph (B), the percentage referred to in subparagraph (A) shall be determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

(B) MINIMUM TOTAL DEPOSITS.—The total aggregate amount deposited into the Bank shall be sufficient to provide for the capitalization, over a period to be determined by the President in consultation with the Secretary and the Secretary of the Treasury (except that the period shall not exceed 5 years) of a revolving fund capable of financing energy efficiency projects totaling at least $200 million annually beginning the 6th year after the date of enactment of this Act.

(3) REPAYMENTS.—

(A) IN GENERAL.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest determined in accordance with subparagraph (B).

(B) INTEREST.—Interest on a loan shall—

(i) be at a rate determined by the President in consultation with the Secretary and the Secretary of the Treasury; and

(ii) accrue upon transfer of the loan amount to the agency.

(C) SOURCE OF REPAYMENT FUNDS.—The agency shall repay the loan from appropriations to the agency for that purpose including the agency's appropriation for facility operations. Repayments from appropriations shall be without regard to fiscal year limitations.

(c) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the Secretary's judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments, obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Bank may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO BANK.—

(A) IN GENERAL.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Bank shall be credited to and form a part of the Bank.

(B) TRANSFERS BASED ON ESTIMATES.—

(i) IN GENERAL.—The amounts required to be transferred to the Bank under subparagraph (A) shall be transferred at least monthly from the general fund of the Treasury to the Bank on the basis of estimates made by the Secretary of the Treasury.

(ii) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 5. EXPENDITURES FROM BANK.

(a) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under subsection (b).

(b) LOAN PROGRAM.—

(1) IN GENERAL.—In accordance with section 6, the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance energy efficiency projects that assist the agency in meeting or exceeding the energy efficiency goals set forth in—

(A) part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.); and

(B) applicable Executive Orders, including Orders No. 12003 and 12579.

(2) PURPOSES OF LOAN.—A loan made pursuant to this section may be made for—

(A) energy efficiency project costs; and

(B) administration and proposal development costs (including data collection and energy survey costs), except that the amount of the loan made for costs described in this subparagraph may not exceed 15 percent of the cost of the energy efficiency project.

SEC. 6. SELECTION SCHEDULE AND CRITERIA.

(a) SCHEDULE.—The Secretary shall establish a schedule for the selection of energy efficiency projects to be awarded loans in accordance with subsection (b).

(b) SELECTION CRITERIA.—

(1) THRESHOLD REQUIREMENTS.—The Secretary may make loans only for energy efficiency projects that are—

(A) technically feasible; and

(B) determined to be cost effective using the life cycle cost methods established by the Secretary by regulation.

(2) OTHER CRITERIA.—The Secretary shall establish criteria for the selection of energy efficiency projects, including—

(A) the cost effectiveness of the project;

(B) the amount of projected energy and cost savings to the Federal Government;

(C) the extent to which funds are leveraged from other sources to finance the project; and

(D) other factors that the Secretary determines will result in the greatest energy and cost savings to the Federal Government.

SEC. 7. REPORTING REQUIREMENTS.

(a) NOTIFICATION TO SECRETARY.—Not later than 1 year after the installation of each energy efficiency project, the agency shall notify the Secretary if the project fails to meet the energy savings projections. For each project that fails to meet the savings projections, the agency shall submit a report outlining the reasons for the failure and proposed remedies.

(b) AUDITS.—The Secretary may audit any energy efficiency project financed with funding from the Bank to assess the project's performance.

(c) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit a report to Congress on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. REID, Mr. PRYOR, Mr. DOMENICI, Mr. AKAKA, Mr. DOLE, Mr. BURNS, Mr. BRADLEY, Mr. PELL, Mr. LEVIN, Mr. DODD, Mr. RIEGLE, Mr. LEAHY, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. DANFORTH, Mr. GORE, Mr. SANFORD, Mr. ADAMS, Mr. MURKOWSKI, and Mr. JEFFORDS):

S.J. Res. 218. Joint resolution designating the calendar year, 1992, as the "Year of American Craft: A Celebration of the Creative Work of the Hand;" to the Committee on the Judiciary.

YEAR OF THE AMERICAN CRAFT: A CELEBRATION OF THE CREATIVE WORK OF THE HAND

Mr. MITCHELL. Mr. President, I am pleased to introduce legislation in the Senate today to designate 1992 as the Year of the American Craft. I also want to thank my colleague from Maine, Senator COHEN, and a number of other Senators who are supporting this commemorative resolution.

In introducing this resolution, it is my hope to draw attention to the traditional handwork of craftspeople throughout the United States—to celebrate that work, and to provide an opportunity to encourage the preservation of these vanishing skills.

American arts and crafts reflect the many cultures and traditions that comprise the heritage of our Nation. They remind us of who we used to be, as well as who we are. It is not surprising, therefore, that in an increasingly high-tech and impersonal world, there has been renewed interest over the last decade in preserving this personal link to our past.

The Smithsonian Institution has recognized this renewed interest in traditional American arts and crafts with its annual celebration in Washington, DC, the American Folklife Festival. The festival, which is attended by thousands of visitors every year, brings together culturally and ethnically diverse groups from all over the Western Hemisphere to share their traditional art, music, and food.

In my home State of Maine, we hold similar festivals to celebrate the heritage and contribution of our State's diverse population—Native Americans, Franco-Americans, and of course, our State's unique "downeast" population. Hundreds of similar celebrations take place nationwide.

In celebrating these traditional crafts, we acknowledge the contributions they have made—both as art forms which we can enjoy and as reminders of our past. By designating 1992 as the Year of the American Craft, we can further acknowledge that excellence in craftsmanship deserves our tribute and our support.

To help commemorate the Year of the American Craft, chairpersons will be selected from all 50 States to initiate and promote projects unique to that State. There is a great deal of enthusiasm for this effort both in my home State of Maine, and among craftpersons throughout the country. I urge my colleagues to lend their support and hope every State will be able to participate in the celebration of the Year of the American Craft in 1992.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. ROTH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 20, a bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes.

S. 492

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 492, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 581

At the request of Mr. BOREN, the names of the Senator from Oregon [Mr. PACKWOOD], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 672

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 672, a bill to amend the Petroleum Marketing Practices Act.

S. 775

At the request of Mr. CRANSTON, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 775, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 790

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 790, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 840

At the request of Mr. DURENBERGER, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 840, a bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes.

S. 911

At the request of Mr. KENNEDY, the names of the Senator from Tennessee [Mr. GORE], and the Senator from Connecticut [Mr. LIEBERMAN], were added as cosponsors of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 1261

At the request of Mr. DOLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1332

At the request of Mr. BAUCUS, the names of the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the medicare program.

S. 1455

At the request of Mr. GRAHAM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1455, a bill entitled the "World Cup USA 1994 Commemorative Coin Act".

S. 1673

At the request of Mr. HEFLIN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1711

At the request of Mr. DOLE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1711, a bill to establish a Glass Ceiling Commission and an annual award for promoting a more diverse skilled workforce at the management and decisionmaking levels in business, and for other purposes.

S. 1730

At the request of Mr. ADAMS, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1730, a bill to provide early childhood staff training and professional enhancement grants, and for other purposes.

S. 1738

At the request of Mr. DASCHLE, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

S. 1767

At the request of Mr. PACKWOOD, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 1767, a bill to exempt semiconductors from the country of origin marking requirements under the Tariff Act of 1930.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Connecticut [Mr. DODD], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1788

At the request of Mr. WIRTH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1788, a bill to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site.

S. 1810

At the request of Mr. DURENBERGER, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

S. 1864

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1864, a bill to authorize the Secretary of Health and Human Services to award a grant for the purpose of constructing a medical research facility at the Children's Hospital of Philadelphia, and for other purposes.

SENATE JOINT RESOLUTION 206

At the request of Mr. RIEGLE, the names of the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. MACK], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Joint Resolution 206, a joint resolution to designate November 16, 1991, as "Dutch-American Heritage Day."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Maine [Mr. COHEN], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Arizona [Mr. MCCAIN], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE RESOLUTION 201

At the request of Mr. DANFORTH, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Georgia [Mr. NUNN], the Senator from Ohio [Mr. GLENN], the Senator from South Carolina [Mr. THURMOND], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Resolution 201, a resolution to express the sense of the Senate regarding enforcement of the oilseeds GATT panel ruling against the European Community.

SENATE RESOLUTION 202—APPOINTING A SPECIAL COUNSEL TO INVESTIGATE DISCLOSURES OF CONFIDENTIAL INFORMATION

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 202

Resolved,

SECTION 1. CONDUCT OF THE INVESTIGATION.

The Federal Bureau of Investigation, the General Accounting Office, and any other Government department or agency as may be appropriate, shall be utilized in carrying out the investigation required by this resolution and the special independent counsel established by this resolution may, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable, or non reimbursable, basis the services of personnel of any such department or agency.

SEC. 2. OFFICE OF TEMPORARY SPECIAL INDEPENDENT COUNSEL.

There is established, as a temporary office of the Senate, an Office of Temporary Special Independent Counsel, which shall be directed by a special independent counsel (referred to as the "special independent counsel"), with administrative support from the Secretary of the Senate, to conduct an investigation of any unauthorized disclosures of non-public confidential information from Senate documents in connection with the following investigations:

(1) the consideration of the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court by the Committee on the Judiciary; and

(2) the investigation of matters related to Charles Keating by the Select Committee on Ethics.

SEC. 3. APPOINTMENT OF THE SPECIAL INDEPENDENT COUNSEL AND EMPLOYMENT OF STAFF.

(a) The President pro tempore of the Senate, upon the joint recommendation of the Majority Leader and the Minority Leader, shall appoint and fix the compensation at an annual or daily rate of pay, or shall contract for the services in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), of a special independent counsel to direct the office established in the preceding paragraph. The President pro tempore of the Senate, upon the joint recommendation of the Majority Leader and the Minority Leader, may terminate the special independent counsel at any time.

(b) The Secretary of the Senate shall, upon the recommendation of the special independent counsel and with the joint approval of the Majority Leader and the Minority Leader, appoint and fix the compensation of such additional staff, including staff appointed at

daily rates of pay, as are necessary to carry out the purposes of this resolution.

(c) Any employee appointed under this resolution may be paid at a rate not to exceed the maximum annual rate of pay for an employee of a standing committee of the Senate.

SEC. 4. EXPENSES OF INVESTIGATION.

(a) The expenses of the investigation of the special independent counsel shall be paid out of the Contingent Fund of the Senate from the appropriation account Miscellaneous Items upon vouchers approved by the Secretary of the Senate, except that vouchers shall not be required for—

(1) the disbursement of salaries of employees who are paid at an annual rate;

(2) payment of expenses for telecommunications services provided by the Telecommunications Department, Sergeant at Arms, United States Senate;

(3) the payment of expenses for stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) the payment of expenses for postage to the Postmaster, United States Senate; and

(5) the payment of metered charges on copying equipment provided by the Sergeant at Arms, United States Senate.

(b) In carrying out the provisions of this resolution, the special independent counsel may procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(c) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray the expenses incurred in carrying out the provisions of this resolution.

SEC. 5. COOPERATION OF THE SENATE.

All committees, Senators, officers, and employees of the Senate shall cooperate with the special independent counsel in conducting the investigation required by this resolution.

SEC. 6. DEPOSITIONS AND SUBPOENAS.

(a) The special independent counsel shall have the power to conduct depositions, at any time or place, of witnesses under oath, including oaths administered by individuals authorized by local law to administer oaths, for the purpose of taking testimony upon examination by any counsel designated by the special independent counsel, and receiving correspondence, books, papers, documents, and other records.

(b) At the request of the special independent counsel, the President pro tempore of the Senate shall have the power to authorize subpoenas, which shall be issued by the Secretary of the Senate, on behalf of the Senate for the attendance of witnesses at depositions under section 6(a) and for the production of correspondence, books, papers, documents, and other records.

(c) The chairman and ranking member of the Committee on Rules and Administration, acting jointly, shall adopt rules for the conduct of depositions and other matters related to the investigation required by this resolution, which shall be published in the Congressional Record. The rules may be amended by the same process.

(d) If a witness refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with the investigation required by this resolution, the chairman and ranking member of the Committee on Rules and Administration, acting jointly, shall rule upon such objection, or they may refer such objection to the full Committee on Rules and Administration for a ruling.

(e) The Committee on Rules and Administration may make to the Senate any recommendations by report or resolution, including recommendations for criminal or civil enforcement, which the Committee may consider appropriate with respect to—

(1) the failure or refusal of any person to appear at a deposition or to produce records in obedience to a subpoena or order; or

(2) the failure or refusal of any person to answer questions during his or her appearance as a witness at a deposition,

in connection with the investigation required by this resolution.

SEC. 7. REPORT OF THE SPECIAL INDEPENDENT COUNSEL.

The special independent counsel shall report the counsel's findings regarding all matters relevant to the investigation by transmitting the report to the Majority Leader and the Minority Leader. The Leaders shall make the report available to all Senators. The Majority Leader and the Minority Leader or their designees shall make—

(1) a determination on referral to the appropriate law enforcement authority of any possible violation of Federal law;

(2) a determination on referring to the appropriate committee any disciplinary action that should be taken against any Senator, official, employee, or person engaged by contract or otherwise to perform services for the Senate, who may have violated any rule of the Senate or of any Senate committee;

(3) a determination on referring to the appropriate executive branch any questions involving the conduct of any official or employee of the executive branch responsible for the unauthorized disclosure; and

(4) recommendations for any changes in Federal law or in Senate rules that should be made to prevent similar unauthorized disclosures in the future.

SEC. 8. EFFECTIVE DATE.

The special independent counsel shall submit the report required by this resolution not later than 120 days after the appointment of the counsel.

SENATE RESOLUTION 203—WISHING PRESIDENT BUSH WELL AS HE DEPARTS FOR THE MADRID TALKS

Mr. DOLE (for himself and Mr. MITCHELL) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Whereas the Middle East peace talks will convene in Madrid, Spain, on October 30, 1991, under the sponsorship of the United States and the Soviet Union.

Whereas all the major parties in the Middle East will be represented at the talks.

Whereas such talks represent the best opportunity since Camp David to make real progress toward a comprehensive Middle East peace.

Whereas President Bush will lead the United States delegation to the talks; and

Whereas President Bush will also use the occasion of his visit to Madrid for bilateral discussions with Soviet President Gorbachev; Now, therefore, be it

Resolved, That the Senate of the United States—

(1) commends President Bush and Secretary of State Baker for their outstanding leadership in organizing the Middle East peace talks; and

(2) wishes President Bush well as he departs for Madrid, both in the Middle East peace talks and in his discussions with President Gorbachev.

SENATE RESOLUTION 204—URGING DISCUSSIONS AT THE UPCOMING MIDDLE EAST PEACE CONFERENCE REGARDING THE SYRIAN CONNECTION TO TERRORISM

Mr. D'AMATO (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. GORE, Mr. GRASSLEY, Mr. PACKWOOD, Mr. ADAMS, Mr. MACK, Mr. DIXON, Mr. HELMS, Mr. SMITH, Mr. COHEN, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. MCCAIN, Mr. LAUTENBERG, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 204

Whereas since December 1979 Syria has been determined to be a country supporting international terrorism under section 6(j) of the Export Administration Act of 1979;

Whereas Syria has been directly linked to the attempted bombing in 1986 of an El Al flight from London to Israel through its paid agent, Nezar Hindawi;

Whereas Syria has continued to sponsor the activities of Ahmed Jabril, a Syrian-born military officer and leader of the Popular Front for the Liberation of Palestine General Command, who has been strongly linked, along with his Syrian sponsors, with the 1988 bombing of Pan Am flight 103 over Lockerbie, Scotland, resulting in the death of 270 people, 189 of whom were Americans;

Whereas Syria has supported and sponsored Abu Nidal, the man responsible for the simultaneous attacks on the Rome and Vienna airports in 1985, numerous assassinations of international officials as well as American citizens;

Whereas Syrian participation in the drug trade out of Lebanon provides up to twenty percent of the hashish that enters the United States as well as forty percent of Lebanon's opiate production;

Whereas these activities provide Syria with massive profits, reportedly as high as $1,000,000,000 a year, thereby enhancing its ability to sponsor terrorism: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it should be the policy of the United States to pursue discussions regarding Syria and terrorism at the Middle East Peace Conference in Madrid, Spain, in October 1991;

(2) Syria should, in this regard, completely renounce all forms of terrorism;

(3) Syria should cease all support of terrorism including financial, military, and political aid to all terrorist groups;

(4) Syria should close all terrorist training bases on Syrian territory and Syrian-controlled, Lebanese territory, particularly that of the Bekka Valley.

• Mr. D'AMATO. Mr. President, I rise along with Senators DECONCINI, GRAHAM, GORE, GRASSLEY, PACKWOOD, ADAMS, MACK, DIXON, HELMS, SMITH, COHEN, MOYNIHAN, MIKULSKI, MCCAIN, LAUTENBERG, and LIEBERMAN to introduce a resolution expressing the sense of the Senate that it should be the pol-

icy of the United States to include discussions of Syrian-sponsored terrorism at the Middle East Peace Conference in Madrid, beginning on October 30, 1991.

We can never have real peace while terrorists are allowed to pollute the new world order. Hafez Assad sponsores, supports, and fosters the murder of innocent men, women, and children. There can never be real peace until Syria fully disavows terrorism and the terrorist community. To this end, Syria must completely renounce all forms of terrorism and cease financial, material, and political support for all terrorist groups, as well as close all its terrorist training camps in Syria and Syrian-controlled Lebanon before any real progress can be achieved at the Madrid Conference.

The Syrians are the slayers of our children. Too many have suffered because they use death to fulfill their senseless political agenda. To dismiss Syria's links with terrorism is to dismiss the deaths of those Americans who perished at the hands of Assad's assassins.

The list of American victims of Syrian terrorism is appallingly extensive. The bombing of Pan American flight 103 led to the slaughter of 189 innocent American citizens, including 35 students from Syracuse University, my alma mater. In this inhumane action, the terrorists murdered the future leaders of our country. These students represented the next generation of doctors, lawyers, environmentalists, businessmen. Can we ever forgive or forget those responsible for this senseless massacre? How can we discuss peace with this merchant of death?

Unfortunately, Pan Am 103 is not the only instance of Syrian-sponsored murder of Americans. Who can forget the tragic plight of our soldiers in Beirut; 241 innocent American Marines, defenders of our country, were massacred in their sleep in the bombing of the Marine barracks.

The blood-stained résumé of Assad does not end here. The 17 Americans left dead in the bombing of the American Embassy in Beirut and the 5 American tourists murdered in cold blood at the massacre in the Rome and Vienna airports, only add to Assad's long list.

How much more evidence do we need? How many more mothers must lose their children? Hafez Assad is truly the Devil of Damascus.

As the founder and cochairman of the Senate Anti-Terrorism Caucus, I must tell you that Hafez Assad and his Syrian cronies are responsible for much of the world's most heinous terrorist acts. As the diplomatic community fawns over Assad, we must never lose sight of his brutal legacy.

We demand verifiable assurances that Syrian policy changes and support for terrorism ends. This butcher must stop killing Americans now.

If he cannot clearly and forthrightly end his support for terrorism, then the United States has no business dealing with Syria any further.●

SENATE RESOLUTION 205—AMENDING THE STANDING RULES OF THE SENATE

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 205

Resolved,

That the Standing Rules of the Senate are amended by adding at the end thereof the following:

"RULE XLIII

"NON-DISCLOSURE POLICY

"Any Senator or officer or staff member or any person engaged by contract or otherwise to perform services for the United States Senate shall not release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary the classified, confidential or designated sensitive business or proceedings of the Senate or any related information, documents or material which are either classified, confidential or designated sensitive. An individual's failure to comply with these strictures shall cause a Senator to be liable to suffer penalties up to expulsion from the body; and if officer or staff member or any person engaged by contract or otherwise to perform services for the United States Senate to suffer penalties up to dismissal from the service of the Senate."

● Mr. DECONCINI. Mr. President, the Senate is in a quagmire. Trust, confidentiality, and the general principle of comity have been breached. But it is not just in the last 3 weeks that these have been violated, they have been violated over the past few years. What is in the best interest of the Nation has been subsumed to what is in the best interest of a good story. Leaks and counterleaks from all political persuasions, from both sides of the aisle and from all stripe of interest seems to compete on a daily basis. The press reports less news than they do rumor, gossip, innuendo, and leaks.

Leaks have become a way of life both in Congress and the executive branch, only the judicial branch has—for the most part—been blessedly spared this ugliness. Individuals who becomes good sources for the media, receive kinder treatment at their hands. Those who refuse to leak—refuse to divulge confidences—receive callous, often cruel handling.

The press cannot be held solely or even perhaps primarily responsible. It is those of us in Government who no longer respect confidentiality, secrecy, and sacred trusts who are responsible.

Mr. President, today I am submitting a resolution to amend the Standing Rules of the Senate to clarify the rules with respect to the treatment of documents and information of a classified, confidential, or sensitive nature. I have proposed adding a new rule 43, because I believe rule 29 which has been cited in this regard applies to executive sessions and does not appropriately address all situations.

My new proposed rule reads as follows:

NON-DISCLOSURE POLICY

Any Senator or officer or staff member or any person engaged by contract or otherwise to perform services for the United States Senate shall not release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary the classified, confidential or designated sensitive business or proceedings of the Senate or any related information, documents or material which are either classified, confidential or designated sensitive. An individual's failure to comply with these strictures shall cause a Senator to be liable to suffer penalties up to expulsion from the body; and if officer or staff member or any person engaged by contract or otherwise to perform services for the United States Senate to suffer penalties up to dismissal from the service of the Senate.

The language I have chosen to use is the result of consideration and review of both the current rule 29, paragraph 5 of the Standing Rules of the Senate, and rule 9(d) of the rules of procedures of the Select Committee on Ethics. The category of designated "sensitive" business would need to be clarified so all Senators would be clear on what this means. My intent would be that it would cover material similar to that which the Ethics Committee describes as "committee sensitive" material and would definitely include FBI reports and documents which committees or Senate leadership designates as sensitive.

I am certainly open to proposed changes in my draft rule 43. It is unquestionable that we need a new rule. All parties need to know what the restrictions on leaking information are and they need to know that the Senate will act swiftly in response to violations of leaks and that action will be severe.

The Senate needs to act now, this month, not next year. If we do not act we undermine our integrity and the integrity of this institution.●

SENATE RESOLUTION 206—AMENDING THE STANDING RULES OF THE SENATE

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 206

Resolved, That paragraph 5(b) of rule XXVI is amended by striking all after "open to the public," in the matter before paragraph 1 and inserting the following: "except that a meeting or series of meetings to discuss matters enumerated in clauses (1) through (6) shall be conducted in closed session unless a majority of the Members of the committee or subcommittee determine, by a recorded vote, that the meeting or hearings should be

open to the public. The matters referred to in the preceding sentence are the following:".

• Mr. DECONCINI. Mr. President, I rise today to offer a Senate resolution to amend the rules of the Senate to require that certain sensitive matters that are the subject of committee and subcommittee hearings be held in closed session in the absence of a vote by a majority of the members of the committee or subcommittee to conduct these hearings in public.

I believe that with the recent event of Prof. Anita Hill's allegation regarding Judge Clarence Thomas we have seen both of these parties unnecessarily compromised. Because of the leak of confidential information furnished by a witness during the Senate's confirmation process that witness was forced to come forward in the public spotlight against her expressed wishes. Moreover, we compromised the integrity of a judicial nominee by openly debating allegations of his personal misconduct. I do not believe that the interests of the confirmation process or the parties involved were served by public hearings. The highly sensitive and inflammatory nature of these allegations support the need for such hearings to be held in private.

In the existing rules—rule 26.5b—the Senate has identified six sensitive matters that are appropriate for discussion in closed session. The areas currently recognized by the Senate rules to be of a sensitive nature are issues that pertain to the following: First, national security; second, internal staff management; third, allegation of misconduct; fourth, law enforcement informants, investigations and prosecutions; fifth, trade secrets; and sixth, matters required to be kept confidential by law.

I have always been a strong proponent of openness in Government and an advocate of an open legislative process. However, the Senate, in its wisdom, has long regarded these enumerated sensitive matters as appropriate for consideration in closed session because of the potential for compromising individual or governmental interests through public exposure.

I agree with the list of issues that the Senate has delineated as sensitive matters. However, I disagree with the presumption, contained in the rules, that requires these sensitive matters to be aired in public unless a majority of committee or subcommittee members determine that a closed session is preferable.

Accordingly, I am proposing an amendment to the Senate rules that would require that hearings and meetings, on these enumerated sensitive issues, be conducted in closed session, unless a majority of members of the committee or subcommittee determine, that all interests would be better served by opening these hearings to the public.

I believe that this amendment will protect sensitive individual and Government interests and ultimately protect the Senate's confirmation and investigation processes from sensationalized exposure that can cause irreparable harm.•

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1991

DOMENICI (AND RUDMAN) AMENDMENT NO. 1270

(Ordered to lie on the table)

Mr. DOMENICI (for himself and Mr. RUDMAN) submitted an amendment intended to be proposed by them to the bill (S. 1745) to amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes; as follows:

Strike all language beginning on page 8, line 23 through line 9, page 24, and insert the following in lieu thereof:

"(o) The term 'required by business necessity' means in the case of employment practices that are used as qualification standards employment tests, or other selection criteria, the challenged practice must bear a manifest relationship to the employment in question, provided, however, that after such employment practices have been applied to produce a qualified applicant pool, a respondent may make its employment decision based upon a valid business purpose even if that purpose does not require the challenged practice."

FEDERAL FACILITY COMPLIANCE ACT

SEYMOUR (AND OTHERS) AMENDMENT NO. 1271

Mr. SEYMOUR (for himself, Mr. DOMENICI, Mr. MURKOWSKI, Mr. GRAMM, Mr. COATS, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. BOND, Mr. BURNS, Mr. CRAIG, Mr. GRASSLEY, Mr. HATCH, Mr. KASTEN, Mr. MACK, Mr. MCCONNELL, Mr. NICKLES, Mr. JEFFORDS, Mr. SMITH, Mr. SYMMS, Mr. HATFIELD, and Mr. LUGAR) proposed an amendment to the bill (S. 596) to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements, as follows:

At the appropriate place, add the following:

The Federal Bureau of Investigation is hereby requested and authorized to obtain such subpoenas as are necessary to secure the attendance of such witnesses and the production of such correspondence, books, papers, documents, and other sources of information, to take such sworn testimony and to make such expenditures out of any funds appropriated and not otherwise obligated to make an investigation into the matter of releasing of any confidential or secretive information transmitted to the Senate Committee on the Judiciary regarding Professor Anita Hill of the University of Oklahoma or Judge Clarence Thomas and to report to the Congress the results of this investigation not later than 30 days after the date of enactment of this Act.

MANAGEMENT OF MARY McLEOD BETHUNE COUNCIL HOUSE NATIONAL HISTORIC SITE

GRAHAM AMENDMENT NO. 1272

Mr. FORD (for Mr. GRAHAM) proposed an amendment to the bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes, as follows:

At the end of the bill, add the following:

Section 775 of the Higher Education Act of 1965 (20 U.S.C. 1132h–4) is amended—

(1) in subsection (c) by inserting "and maintenance" after "construction", and

(2) in subsection (d) by striking "$6,200,000" and inserting "$15,700,000".

TOURISM POLICY AND EXPORT ADMINISTRATION ACT

ROCKEFELLER (AND BURNS) AMENDMENT NO. 1273

Mr. FORD (for Mr. ROCKEFELLER, for himself and Mr. BURNS) proposed an amendment to the bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes, as follows:

Strike all on page 29, line 21, through page 30, line 12, and insert in lieu thereof the following:

"(D)(i) At the same time that the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. Subject to the requirements of subsections (c) and (d), the Secretary is authorized to provide financial assistance to carry out proposals submitted under this subparagraph, and such assistance shall be provided no later than two years after the notice is published under subparagraph (B). In addition to financial assistance, the Secretary may provide technical assistance.

"(ii) The expenditures in a fiscal year to issue requests for proposals and provide financial assistance under clause (i) shall not exceed 10 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

On page 30, at the end of line 20, add the following new sentence: "The Secretary may reassign personnel from existing foreign offices to such tourism trade development offices.".

Strike all on page 32, line 13, through page 33, line 12, and insert in lieu thereof the following:

(e) CONFORMING AMENDMENTS.—(1) Section 202(a)(5) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(5)) is amended to read as follows:

"(5) may provide financial assistance under subsection (e) to States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations;".

(2) Section 202(c) of the International Travel Act of 1961 (22 U.S.C. 2123(c)) is amended—

(A) in the first sentence—

(i) by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "subsection (e)"; and

(ii) by striking "under this clause";

(B) in the second sentence by striking "paragraph" and inserting in lieu thereof "subsection"; and

(C) in the third sentence by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

(3) Section 202(d) of the International Travel Act of 1961 (22 U.S.C. 2123(d)) is amended by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

Strike all on page 45, and insert in lieu thereof the following:

(d) REPEALS.—Sections 203 and 204 of the International Travel Act of 1961 (22 U.S.C. 2123a and 2123b) are repealed.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by striking subparagraph (E);

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) by redesignating subparagraphs (H) and (I) as subparagraphs (M) and (N); and

(D) by inserting immediately after subparagraph (F), as so redesignated, the following new subparagraph:

"(G) the Secretary of Agriculture or the individual designated by such Secretary from the Department of Agriculture;

"(H) the Chairman of the Tennessee Valley Authority;

"(I) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(J) the Administrator of the Small Business Administration;

"(K) the Commissioner of Customs;

"(L) the Attorney General or the individual designated by the Attorney General from the Immigration and Naturalization Service;".

Strike all on page 47, line 19, through page 48, line 19; and on page 46, line 16, strike "(a) DEPUTY UNDER SECRETARY.—".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, October 24, 1991, at 10 a.m. to conduct a hearing on issues related to RTC funding.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 29, 1991, at 2 p.m. to hold a business meeting.

The committee will consider and vote on the following business item:

Legislation: Senate Resolution 198, authorizing the Committee on Foreign Relations to exercise certain investigatory power in connection with its inquiry in the release of the United States hostages in Iran.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Resources be authorized to meet during the session of the Senate on Thursday, October 24, 1991, at 10 am, for an executive session on pending business.

Agenda: First, S. 1150, to reauthorize the Higher Education Act; and second, S. 1275, to reauthorize the Office of Educational Research and Improvement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, October 24, 1991, at 9:30 a.m. for a hearing on the subject: The role of the Council on Competitiveness in Regulatory Review.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, October 24, 1991, at 2 p.m. for a hearing on the "Failure and Success of Current Mammography Practice: The Need for Stronger Federal Quality Standards."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, October 24, 1991, at 10 a.m. to conduct a hearing on issues related to RTC funding.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 24, 1991, to receive testimony on S. 144, a bill to protect the natural and cultural resources of the Grand Canyon and Glenn Canyon; and the following titles of H.R. 429.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcomminee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, October 24, at 9 a.m. to hold a hearing on the narcotics and foreign policy implications of the BCCI affair.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

COMMEMORATION OF THE HUNGARIAN NATIONAL UPRISING

• Mr. WELLSTONE. Mr. President, I rise today to commemorate the 35th anniversary of the Hungarian National Uprising. In 1956, on October 23, 24, and 25, Hungarian students sparked a spontaneous popular uprising against their repressive Communist government and Soviet political and economic domination. In the 2 weeks before the uprising was brutally suppressed by the Hungarian police and Soviet troops, a new reform-minded Hungarian leadership instigated a short-lived process of reforms and the Hungarian people briefly felt the exhilaration of new found freedoms and hope.

This week, 35 years later, Hungary has thrown off the chains of its authoritarian past and is creating a vibrant, democratic society. As the world celebrates the transformation of Hungary—and that of the Soviet Union and other countries formerly part of the Soviet bloc—we should pay homage to those who came before.

The students, intellectuals, soldiers, and ordinary Budapest residents who led the rebellion demanded respect of their fundamental political and civil rights. They demanded an end to one-party rule. They demanded the reappointment of the reformist leader Imre Nagy to be Prime Minister. And they demanded the removal of all Soviet troops from their country.

Thanks to their conviction and courage, Hungary enjoyed a few days of freedom. A free press and radio came to life all over the country and the dreaded secret police were disbanded. Revolutionary and workers' councils sprung up spontaneously in different parts of the country to replace the collapsing structure of the Communist Party. The workers' councils took steps to give workers control of nationalized industries and to improve workplace conditions. Mr. Nagy, though himself a Communist of long standing, invited non-Communists into a new governing coalition.

The Hungarian freedom fighters were to pay dearly for their conviction. On October 25, over 25,000 people gathered at the Parliament to see Prime Minister Nagy. Soviet tanks and Hungarian secret police opened fire on the crowd with machineguns. Many hundreds of people were mercilessly gunned down. Medical personnel were shot at when they tried to tend to the wounded.

Imre Nagy ordered Soviet troops to leave his country. He appealed to the United Nations for help. The Soviet Union sent reinforcements and the United Nations rejected his pleas. On November 4, the world stood by as Soviet troops attacked Budapest and seized control of the city.

Mr. President, although this rebellion was crushed and a new government installed in Budapest, the spirit of Hungarian resistance and democratic reform lived on. Today, Hungary has picked up where it left off 35 years ago. The first free elections in 43 years took place in March 1990. Hungary is now a working parliamentary democracy, headed by Jozsef Antall and the New Democratic Forum. Its civil society is slowly recovering after decades of near absolute repression. Its economy is rapidly expanding and becoming internationalized.

Thirty-five years ago, the Hungarian freedom fighters were a ray of hope for all the people of Eastern Europe who were struggling to throw off the darkness of the cold war and Soviet domination. Today, Hungary continues to be an important influence on the future of the new Europe, which has emerged into the bright daylight.

While on the subject of freedom fighters, I would also remind our colleagues that we are honored today with the presence in Washington of the president of another courageous country, President Vaclav Havel of Czechoslovakia. We salute the brave people of both Hungary and Czechoslovakia and pray that—to paraphrase Eleanor Roosevelt—the lights from all their candles may truly light the entire world.•

WISCONSIN'S FRIENDSHIP QUILT

• Mr. KASTEN. Mr. President, self-sacrifice is one of the proudest traditions of our country. Earlier this year, thousands of young Americans acted in this spirit—laying their lives on the line to liberate Kuwait from the invading forces of Iraq.

Next Monday, October 28, a group of Wisconsin schoolchildren will help highlight the continuing friendship between the people of the United States and Kuwait. The children of northern Wisconsin have created a large "friendship quilt"—and they will present this quilt to Kuwaiti Ambassador Sheikh Saud Nasir Al Sabah on Monday.

This quilt will send a valuable message to the people of Kuwait. It will say that America's next generation is as committed to a happy future for Kuwait as their parents were. I think everyone connected with this quilt project deserves our praise and respect—especially Kathy Michelson, the elementary schoolteacher who directed the project, and students Keith Timmons, Chrystal San Fillipo, Jessica Zoth, and Jennifer Pitzo, who will present the quilt to the Ambassador.

I also want to commend Dillman's Creative Arts Foundation and the Lutheran Brotherhood, Minocqua, WI for their important contributions to this worthwhile project.

These young people are doing a great job of demonstrating America's commitment to peace. I applaud their efforts, and encourage others to take this kind of idealistic interest in America's global role.•

TRIBUTE TO LLOYD T. SHANLEY

• Mr. DODD. Mr. President, Lloyd T. Shanley, Jr., was born and raised in Harwinton, CT, on his family dairy farm. A Democrat in a town of Republicans, Lloyd developed an interest in Harwinton politics at a very early age. Today I rise to pay tribute to a man who has devoted his entire adult life to serving the Democratic Party in the town of Harwinton.

In a career spanning 35 years, Lloyd has held the position of roadcrew supervisor, town historian, police chief, member on the town's first Board of Finance, and the first democratic first selectman in Harwinton's history. It is as first selectman that Lloyd will be most remembered and respected. During Lloyd's administration, Harwinton acquired a new town hall in response to a growing town government. In short, Harwinton flourished under his hand.

Mr. President, Lloyd T. Shanley is a man known for standing behind his beliefs. In Harwinton, people struck by his undying commitment to town service have given him the title of "town father." It is no wonder that individuals from both sides of the political aisle have expressed their sadness over his retirement.

I understand that Lloyd intends to pursue his interest in the history of Harwinton. It is only fitting that a man who is so much a part of Harwinton's history is the town historian. I look forward to the results of his work as town historian and hope that he will always play an active role in the affairs of his beloved community.•

VETERANS COLA

• Mr. GORTON. Mr. President, experience teaches us to "learn from our mistakes." It is my sincere hope, therefore, that we learn from last year's failure to pass a cost-of-living adjustment for our Nation's disabled veterans and support the immediate passage of H.R. 1046.

Passage of H.R. 1046, as amended, is both necessary and timely. Each year, service-connected disabled veterans and DIC beneficiaries rely on Congress to give them a cost-of-living increase to keep pace with the changing economy. Service-connected veterans have no choice but to bear the burden of their disability for the duration of their lifetime. These payments compensate disabled veterans and their families for the loss of earning capacity due to the disabilities received while dutifully serving their Nation. Disabled veterans are, to this Senator, America's heroes, and are perhaps the most deserving of this compensation.

The COLA that Congress authorizes each year is only a small token of our appreciation for the sacrifices that disabled veterans made for America. It would be unforgiveable for Congress to, once again, forget the men and women who worked to preserve this Nation. Disabled veterans should not be left behind as we forge ahead on more pressing matters. Our veterans fought to defend America and have every right to depend on America to give them what they were promised and, more importantly, what they deserve.

I urge the Senate to pass a cost-of-living adjustment for our Nations veterans so that disabled veterans and their families across the Nation can receive an increase in their compensation by January of 1992. I hope all Senators are aware of the importance of this cost-of-living adjustment and will actively support the immediate passage of H.R. 1046.•

BREAST CANCER VICTIMS: WE WILL BE HEARD

• Mr. WELLSTONE. Mr. President, I rise today to give a national voice to the thousands of Minnesota women who have been struck by breast cancer.

A delegation of these women visited me recently to share their stories—and the stories of thousands more women like them in Minnesota. I was struck by their courage, determination and fortitude. I was also struck by our lack of commitment to this issue.

We have systematically ignored and underfunded research and treatment of this disease. Last year, we spent only $81 million on breast cancer research.

And yet breast cancer is the most common form of cancer in American women. One out of nine women in the United States will develop breast cancer in her lifetime. This year, a breast cancer will be diagnosed every 3 minutes and a woman will die from breast cancer every 12 minutes. This year, 175,000 new cases of female breast cancer will be diagnosed.

We need to devote more resources to research of breast cancer—research into its cause, research into its treat-

ment. We need to devote more resources to encourage access to screening and early diagnosis. I ask my colleagues to make this commitment to the women of this Nation.

The women who visited me brought with them more than 2,200 letters from Minnesotans affected by breast cancer—women struck with the disease, their families, their friends.

I want to share some of these letters with my colleagues because these are voices that must be heard, that must be responded to. We have ignored these voices all too long.

From Cottage Grove MN:

This letter would have been quite different if I had written it thirteen months ago, before I was diagnosed with breast cancer at age 44. . . . If you could have seen the fear and tears in the eyes of my three children, ages 12, 17, and 20, when I told them I had breast cancer, you would not waste more money on Star Wars or fund the Space Station at two billion dollars this year and 40 billion dollars before it is completed. . . . For too long women have been self-sacrificing caretakers who always put their own needs and concerns after those of other family members. Those of us with breast cancer and millions of our supporters realize that being silent caretakers has to end. We are now advocates for our own health needs. We are your wives and lovers, mothers, daughters, sisters, grandmothers, and aunts. We are being diagnosed at the rate of one every three minutes. We are dying at the rate of one every twelve minutes. We will be silent no longer. We will be heard.

From Lakeville, MN:

Six months ago, at age 45 my carefully planned world fell apart when I was diagnosed as having breast cancer. . . . Why, with the incidence of breast cancer rising so rapidly, and striking at women in their prime, is so little money allocated for research to find a cure for this horrible disease? * * * Please make it your priority to increase funds and to get those dollars to the researchers as soon as possible. It will be too late for the 44,000 of us who will die this year but somehow we must make up for lost time.

From New Brighton, MN:

I am 37 years old, with three children, and have breast cancer. I had no known risk factors. None. But I still got breast cancer and where my breasts once were, I now have two red scars. * * * I know it is difficult to earmark funds for one particular disease and yet I hope you men find the courage to do it.

From Lake Crystal, MN:

I am a 52 year old farm wife, mother of five children and grandmother of nine grandchildren. On August 23d of this year I was diagnosed with breast cancer, and on September 13th I had a modified radical mastectomy. * * * More funding is needed for research to find what is causing this horrible, dreadful disease. * * * I am reaching out in desperation with hopes that my plea will be heard—not only for myself but for thousands of women who will be diagnosed with breast cancer in the coming year.

From Lakeville, MN:

One year ago I learned that I had breast cancer. * * * Breast cancer is an epidemic. I was appalled to hear a woman on the Cancer Advisory Board a few months ago reply to a request for increased funding for breast cancer research with, "Only 10 percent of the women in the U.S. get it." We who are part of that 10 percent are more than just numbers. The incidence rate is also one out of nine now. We are someone's wife, mother, child. We cannot afford that kind of attitude. We need more research dollars committed to finding the cause and a cure for breast cancer, we need to ensure high quality treatment for all women, and to appoint women who have had breast cancer to legislative, regulatory and scientific panels.

From Cottage Grove, MN:

When I was 12 my mom told our family that she had breast cancer. * * * So sir I think that you should increase funding for breast cancer. * * * So instead of building bombers at half a billion a pop why don't you save many women's lives, possibly your wife or maybe your daughter or niece. * * * Luckily my mom was a survivor, but many other kids moms are dying or have died from this horrible disease.

From Bloomington, MN:

My wife, then 34 and the mother of three children, was diagnosed with breast cancer nearly three years ago. It angers me that the amount of money allocated to breast cancer is so low, given the epidemic nature of this disease. One wonders what the situation would be if women dominated the political arena, or if this disease ravished the lives of men as it does women and their loved ones.

From Albert Lea, MN:

I am a high school senior and what I have been told about breast cancer frightens me. * * * The figures I have seen tell me that a very small percentage of medical research money is being spent on women's diseases, and breast cancer in particular. On behalf of myself, my girlfriends, and our mothers, I am asking you to make the cure of breast cancer a national priority by increasing funds for needed research.

From Eden Prairie, MN:

On April 8, 1991 my mother was informed that her mammogram was abnormal. * * * The diagnosis of breast cancer was the worst thing our family has ever faced, however, not as hard as the news we were to receive on Tuesday, April 23, my mother's 49th birthday. As the surgeon made his early morning call, he informed my mother that the cancer had spread to 17 of the 20 lymph nodes they had removed. * * * By the time it takes to read this letter, another woman will be diagnosed with breast cancer. * * * In 1991, there will be 3,100 new cases in Minnesota alone. Elected officials must make the cure of breast cancer a national priority by increasing funds for needed research. If we cannot find new monies, then I ask you to recycle dollars from less life-threatening issues. We need your help NOW—we do not want to pass this devastating legacy on to the next generation.

Mr. President, these letters—and thousands more—express the urgency and magnitude of this crisis better than I could ever do. I ask that these words be heeded.●

SAVE YOUTH ATHLETICS FOR THE CHILDREN OF AMERICA

● Mr. SEYMOUR. Mr. President, I rise today in recognition of the United States Youth Athletic Network [USYAN], a nonprofit organization that provides support to youth athletic programs. Based in my home of Orange County, CA, the USYAN organization is celebrating National Youth Athletic Week this week, October 20 through October 26, 1991.

The motto of the USYAN is "Growth Through Athletics," and USYAN furthers that growth through assisting in fundraising and providing financial support to youth athletic programs.

The USYAN's Save Youth Athletics for the Children of America campaign is the only such campaign to utilize youth athletics to help combat the influence of gangs on children.

The USYAN works to provide children with a team, not a gang, by encouraging youth athletics as a positive alternative to the world of drugs and gangs. The many individuals—including Bruce Jenner, Tommy Lasorda, and Arnold Schwarzenegger, who volunteer their time and effort to the USYAN—are actively working to preserve youth athletics in America in the face of budget cuts and financial limitations on schools, which have traditionally sponsored athletic endeavors in this country.

Busy hands are happy hands, and putting sports equipment into the hands of children helps keep them out of the hands of gangs and drug dealers. Idle time can make the schoolyard a Devil's playground. Youth athletics makes after-school time productive, fulfilling time for our children.

I ask the Senate to join me in saluting the United States Youth Athletic Network and in recognizing the importance of youth athletics in their own States and communities during National Youth Athletic Week. ●

THE 1991 COST-OF-LIVING ADJUSTMENT FOR DISABLED VETERANS AND THEIR DEPENDENTS

● Mr. KASTEN. Mr. President, I rise today to express my support for passage of H.R. 1046, which would provide a 3.7-percent cost-of-living adjustment [COLA] for rates of service-connected disability compensation and dependency and indemnity compensation [DIC] for the widows and children of our Nation's veterans.

Congress' inability to pass a timely COLA for fiscal year 1991 was inexcusable. For the first time, the Senate had to retroactively pass a COLA forcing veterans to wait for months to receive the promised increase in disability compensation. We must not allow this history to repeat itself. Passage of H.R. 1046 will ensure that disabled veterans and their survivors receive the benefit increase they deserve—on time.

Mr. President, because of administrative constraints, the Veterans' Administration needs almost 10 weeks of preparation time to make the necessary rate adjustments. If we delay passage of this bill, veterans in Wisconsin and throughout the country once again will be put in the tenuous posi-

tion of not knowing when they will receive their COLA.

The Senate bill, S. 775, contains the needed cost-of-living allowance. However, it also contains several contentious provisions which could inhibit the expeditious passage of the COLA. While I fully believe that the Senate needs to address the issue of presumption of service connection for radiation exposure, I do not think we should do so at the expense of the COLA. By separating the COLA from the other provisions in the Senate bill we can give our veterans the increase they deserve and allow time for full debate on the provisions regarding radiation exposure.

As we look at the world changing around us, we can be proud of the men and women who fought to defend our country and who, in doing so, set an example for the world. Our veterans have proudly served this great Nation, and they deserve our utmost respect and support. They have given of themselves so that future generations of Americans could live freely. Congress must not let them down again.

Mr. President, we must act swiftly. We must pass this legislation for our past veterans who made America great and for the men and women of our Armed Forces who will take us into the 21st century.●

REV. PAUL M. PRIDGEN, JR.: DISTINGUISHED CHRISTIAN SERVICE

● Mr. HOLLINGS. Mr. President, a truly distinguished Christian ministry will reach a milestone this December with the retirement of the Reverend Paul M. Pridgen, Jr., as pastor of First Baptist Church in North Charleston. Reverend Pridgen was ordained in 1951, and has served at First Baptist Church for a remarkable 32 years. During that time he has been much more the beloved shepherd of his First Baptist congregation. He has also been recognized as one of the most respected leaders in his community—a man of character and charity whose dedicated service has made a real difference in North Charleston.

In addition to his pastoral responsibilities, Reverend Pridgen has had a passionate commitment to furthering Christian education, whether in founding the Church Child Care Center, or in nurturing Baptist College—now Charleston Southern University—which recognized his dedicated leadership by bestowing an honorary doctorate of divinity. In 1971, he founded the Baptist Academy through the mission of his church.

Through it all, Reverend Pridgen has earned a reputation as an authority within the Southern Baptist denomination. He was the first Baptist pastor invited to preach at Charleston's Cathedral of St. John the Baptist. And, though nearing retirement, he is hard at work on his latest project, which is the building of a shelter for the homeless in North Charleston.

Mr. President, Reverend Pridgen and his wife, Millie—who has been a tireless servant of First Baptist Church in a whole range of capacities—have given so much to the North Charleston community. Knowing Paul and Millie, I know that their dedicated service will continue even in retirement. I wish them both the best of luck and happiness.●

OAKLAND FIRES

● Mr. SEYMOUR. "It was like a visit to hell at Ground Zero." Mr. President, that is how John Maynard of the Oakland Tribune and resident of the Oakland Hills area describes the recent fire storms that swept through California's East Bay communities.

The statistics are staggering, Mr. President. The pain and suffering literally go beyond what any of us here can begin to describe. In a matter of hours entire blocks, entire communities were literally scorched from the face of the map.

What began as a brush fire fueled by dry winds and 5 years of drought has wrought immense destruction. Seventy-four strike teams, each with 5 engines, and over 1,000 firefighters and emergency response personnel were pushed to the edge of the envelope in battling the flames.

And it was not without a price.

Oakland Fire Battalion Chief James Riley lost his life while courageously shielding a woman from a falling power line. And John Grubensky, an Oakland police officer fell in the line of duty. Many more, though literally licked by the flames of death, persisted to bring this great blaze under control.

We owe these brave individuals and the hundreds of volunteers our highest tribute and thanks. Disasters, events like these of sheer terror and stress, bring out the best in people. Without them and their selfless efforts, the already devastating circumstances would be that much greater.

Until all of the debris is cleared away, and people can get back into the areas where their homes once stood, we will not have precise damage estimates. But what we know to date frightens me.

The blaze to date has claimed 25 lives with 23 persons still listed as missing. Many more are injured; 2,449 homes and 440 apartment units destroyed. A 1,900 acre swath has been cut through East Bay communities, leaving thousands homeless.

Some 2,000 motor vehicles have been destroyed. Total loss estimates are now at $5.2 billion.

Mr. President, this catastrophe is already being entered into the annals of California history as the State's second worst fire disaster, ranking just behind the fires that engulfed San Francisco in the aftermath of the 1906 earthquake. Today's *Wall Street Journal* reports this fire will cost the insurance industry more than $1.2 billion, making it the second most costly natural disaster since the industry began keeping records of this nature back in 1949. And to place this event in a different perspective, it is being compared to the great Chicago Fire of 1871, only today's investigators do not have Mrs. O'Leary's cow to point to. In fact, the exact cause of the Oakland Hills blaze is still listed as suspicious.

Great credit should go to President Bush, Governor Wilson, and the political leadership of Oakland, Berkeley, and other East Bay communities. Response was quick. The President issued a Federal disaster declaration less than 24 hours following the State's request for Federal relief. Disaster Application Centers should be open for business in Oakland by this Saturday morning.

Now, Mr. President, we must turn our attention to the very difficult and arduous tasks that lie ahead: the actual rebuilding of homes, lives and livelihoods, entire communities. After such a traumatic experience, we can never expect to make any victim of natural disaster entirely whole. Nor does Federal law contemplate full reimbursement for losses. Rather, the Federal Government's role and relief programs as codified under the Stafford Act are designed to supplement other forms of assistance, such as homeowners and property insurance.

Another component of the Federal disaster assistance program calls for Federal reimbursement for the replacement and repair costs of public structures and facilities, including emergency response costs. In this specific area, public assistance, FEMA is rapidly running out of funds. In fact, outstanding claims dating back to Loma Prieta and Hurricane Hugo, events which occurred more than 2 years ago, still await reimbursement.

With this being the case, action is clearly needed to improve FEMA's funding shortfalls. We need to get assistance to these communities; they need help, and it is owed under Federal law. Enactment of the fiscal year 1992 VA–HUD appropriations bill will be a step in the right direction, providing $185 million for the FEMA disaster fund.

And, fortunately, a fiscal year 1991 supplemental appropriations bill is making progress in the other body, with passage expected soon. That bill promises $693 million for FEMA, which should retire outstanding FEMA debt. I hope we will be able to take it up very quickly.

All of these communities, not just those ravaged by the Oakland fires, deserve complete Federal assistance in time of natural catastrophe.

Relief is needed, Mr. President. And now is the time to act.●

HON. PHILIP R. SHARP'S EFFORTS TO CRAFT AN ENERGY BILL

• Mr. JOHNSTON. Mr. President, I would like to commend the distinguished chairman of the House Subcommittee on Energy and Power, PHIL SHARP, for the great job he is doing and the progress he is making moving energy legislation through his subcommittee.

I know from my own experience trying to move the National Energy Security Act (S. 1220) through the Senate Committee on Energy and Natural Resources that his task has not been easy. He has devoted countless hours to this effort since last winter. He has held innumerable hearings and markups on many of the major issues that go to make up a balanced and comprehensive energy plan. He is not finished yet, but I hope my colleagues will take note of his effort.

URANIUM ENRICHMENT

In particular, I am grateful for his leadership on the subject of uranium enrichment. As you know, Mr. President, the Department of Energy's uranium enrichment program is in serious trouble. The Senate has passed legislation to restructure the program six times over the last 4 years, but it has yet to become law. Jurisdiction over the subject is spread among three committees in the other body and none of them has reported a bill.

Under Congressman SHARP's leadership, however, the House Subcommittee on Energy and Power last week approved legislation to restructure the enrichment program. In many respects, Mr. SHARP'S proposal is different from the one the Senate has repeatedly passed. Mr. SHARP took a fresh look at the problem and came up with a number of new and innovative ideas to deal with the enrichment enterprise's problems. We will need to study his approach carefully in the weeks ahead, but I see no fundamental problems with it and I am confident that we will be able to work out any differences in conference.

ALTERNATIVE FUELS

In addition, 2 weeks ago, Chairman SHARP offered, and his subcommittee approved, a major package on alternative fuels. His leadership in this field is without rival in the House of Representatives. With Senator ROCKEFELLER, Congressman SHARP was one of the principal architects of the Alternative Motor Fuels Act of 1988. The legislation his subcommittee adopted last week builds on the 1988 law.

In many respects, Chairman SHARP's new legislation does not go as far as the alternative fuel provisions in S. 1220. It requires the Federal Government to buy fewer alternatively fueled fleet vehicles. It does not require States, local governments, and business fleets to acquire alternatively fueled vehicles, though it does give the Secretary of Energy standby authority to impose these mandates at a later date. It is more cautious than S. 1220, but it is headed in the same direction.

ENERGY EFFICIENCY

Mr. President, I would also like to recognize Mr. SHARP's effort to develop a very comprehensive legislative package on energy efficiency. Both S. 1220 and the Energy and Power Subcommittee package include dozens of proposals designed to make the most of energy efficiency opportunities throughout our economy—in the buildings sector, through the establishment of codes and ratings; in the utility sector, through new regulatory requirements regarding rates and integrated resource planning; through the expansion of appliance and equipment efficiency standards and labeling; and through a variety of additional initiatives designed to revitalize and improve the operation of existing energy efficiency programs.

In some areas, such as appliance standards, Mr. SHARP's bill is more aggressive in promoting efficiency. In other areas, such as Federal mortgages and energy efficient mortgages, S. 1220 is more aggressive. Notwithstanding these differences, two important facts remain.

First, both bills contain strong and comprehensive efficiency provisions. While there may be differences over the relative strength of certain provisions, there is no disagreement over the scope of an energy efficiency policy. It must be broad, and both bills essentially cover the waterfront as far as workable efficiency initiatives are concerned.

Second, the differences that exist between these bills are manageable and will be resolved. It is fair to say that whatever national energy legislation emerges from the congressional debate, it is certain to be one of the most comprehensive pieces of energy efficiency legislation to be enacted in over a decade.

RENEWABLE ENERGY

The same can be said for the renewable energy provisions in S. 1220 and the legislation Chairman SHARP and his subcommittee have crafted. Both include a range of provisions to promote the development of renewable energy technologies in order to overcome the economic and regulatory barriers that have prevented widespread commercialization. Both expand the joint venture program under the Renewable Energy and Energy Efficiency Technology Competitiveness Act—Public Law 101-218—to include additional renewable energy technologies. Both expand and strengthen the mandate of the interagency Committee on Renewable Energy Commerce and Trade [CORECT], an interagency committee that promotes the spread of commercially viable renewable energy technologies in developing countries. Both grant the Department of Energy the authority to buy down, or subsidize, interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.

In some aspects S. 1220's renewable energy provisions go farther than the House measure; in other aspects, the reverse is true. On one point, the use of a user fee on the transmission and sale of electricity to fund incentive payments to operators of renewable energy facilities, the House measure may go too far for many Senators. For the most part, though, the two measures are remarkably compatible.

NATUREAL GAS

Chairman SHARP also has taken a leadership role in the area of natural gas regulatory reform. The natural gas provisions of the Energy and Power Subcommittee's package are consistent with the thrust of title XI of S. 1220. The purpose behind the natural gas regulatory provisions in both measures is the elimination of regulatory barriers that inhibit natural gas from getting to markets where it is needed. While the measures differ somewhat on local distribution company bypass and take divergent paths on the regulatory standards for reviewing natural gas imports, I am confident that, when the time comes, these differences can be reconciled.

PUHCA

Finally, I want to commend Chairman SHARP for his successful effort to tackle the difficult issue of Public Utility Holding Company Act [PUHCA] reform. While I have reservations about some of the actions taken by the Subcommittee on Energy and Power in this area, I congratulate Chairman SHARP for recognizing the importance of allowing competition in wholesale electricity generation to go forward.

These are very difficult and controversial issues, Mr. President, but they will have great and long-term effects on the energy security of this Nation. Mr. SHARP and the members of the House Subcommittee on Energy and Power have made, and are continuing to make, diligent and conscientious efforts to address them.

I admire Chairman SHARP's skilled leadership, his firm resolve to move ahead, and the creative and responsible proposals he has put forward. Mr. SHARP and I have followed very different paths toward our mutual goal of enacting a comprehensive energy bill. We have worked separately, without consulting each other, at different paces, following different strategies. In the end, though, the Energy and Power Subcommittee's package and S. 1220 will have much in common. It gives me renewed confidence in the ultimate success of our efforts.

I commend my colleague in the House for his efforts.•

IMPACT AID PROGRAM

• Mr. BAUCUS. Mr. President, I strongly support legislation to restore the Secretary of Education's authority to make preliminary payments from the Impact Aid Program to school districts.

These are tough economic times for our Nation's schools. The Impact Aid Program is critical to the continued improvement of our educational system. It helps to defray the costs of providing quality education.

The Impact Aid Program is of particular importance to Montana. In fiscal year 1990, Montana schools received over $21 million in impact aid. The timely receipt of this funding is of utmost importance to our school's uninterrupted financial operations.

The stability of Montana's public schools is a top priority in our State. Montana's children and teenagers are perhaps our most precious resource. By investing in their education, we are investing in our future.•

A SALUTE TO HOUSE OF HOPE

• Mr. SEYMOUR. Mr. President, I rise today to salute the House of Hope in San Diego, CA, on the occasion of its 15th annual open house, which was held on Tuesday, October 22, 1991.

Each year, the House of Hope's open house helps dramatize the critical need in our communities to provide a nurturing, supportive environment for the constructive model that is so desperately needed by the youth of today.

As a result of the dedicated philanthropic efforts of Mrs. Mamie Thomas and her sons, Fred and Ricky, seemingly gargantuan obstacles in the lives of many youths have been surmounted. Young lives that seemed hopelessly rushing headlong toward destruction now show incredible promise for the future, thanks to the Thomas family's efforts at the House of Hope.

One such life that has been changed by the House of Hope is that of Zedrick Martin. Zedrick was involved in selling drugs and heavily involved in gang activity before he came to the House of Hope. Today, Zedrick's scholastic record has improved from failing grades to a 3.5 GPA. He has excelled in both football and basketball in his high school and has received numerous offers of scholarships to colleges and universities throughout the country.

There are many more Zedrick Martins in our communities; young people who need a hand to successfully confront the challenges they face in today's dangerous world.

In reaching out to these children, the San Diego House of Hope is helping make a better future. The indefatigable spirit of the Thomas family and the dedication of the staff of professionals at the House of Hope serves as not only a model to others but also an inspiration to us all.

I ask the Senate to join with me in saluting the House of Hope.•

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNEMPLOYMENT BENEFITS

Mr. RIEGLE. Mr. President, the other day I gave a speech here on the Senate floor about the urgent need to extend unemployment benefits in the country. And as most people know, who have followed that issue, we have had now several debates on the issue. Congress has passed extended unemployment benefits twice, and President Bush has refused to let those unemployment benefits actually take effect and go out to the unemployed workers in the country.

The other day, as I was speaking on this issue, a citizen, a woman in Alabama, happened to be watching national television, or watching C-SPAN, and heard those remarks, and wrote me a letter in response to some of the points that I had raised.

In this letter, she tells her own story and talks about some problems that she has seen through her lifetime that are affecting other people who have lost their jobs, who are living very meager existences, and the circumstances that they have had to try to cope with.

I found her letter so powerful that I want to share it here with the Senate tonight. It is dated October 17, 1991, and it comes from a woman in Fairfield, AL. I am not going to cite her name, because I have not spoken with her, and I do not know whether she would want her name mentioned. But I am going to read much of the text of her letter to the Senate tonight, because I think it is highly relevant to the times that we find ourselves in and the circumstances facing our people.

She pays a couple of personal compliments along the way, which I am grateful for, and I am going to leave those out of the reading of the other remaining parts of the letter. She starts out saying:

> Thank you for remembering that all men are created equal, but all are not given the aid or opportunity to attain this point of equality and maintain this position throughout their lives.
>
> You probably never expected to hear from a lady living in Fairfield, Alabama. Frankly, I never expected I would be writing a Senator from Alabama, much less Michigan, but your speech prompted me to do so. In writing this I hope to enlighten you on America's appreciation of what you are attempting to relay to our government, in particular, our President.
>
> I have voiced my opinion (almost verbatim to yours) for many, many years. The difference being that my opinion is the product of personal experience and yours from a recognized position.

She comments here about listening to my remarks, and she then says:

> Can you convince others like yourself that poverty is real? One must first have to be hungry to really appreciate food. Have you ever gone to bed hungry from lack of food just to arise the next day, head off to work hungrier than the day before? Have you been deserted and left to deliver a baby by yourself and then bring him home without food or utilities? Do you really know what it is to not have any money? I do. It is situations like this that sharpen my knowledge of the plight of the poverty-stricken in America and the world. I can relate to the unemployed and poor.

She continues:

> It is infuriates me and is beyond my comprehension to hear our President and others deny the need for unemployment benefits extension. Do you know anyone who can survive on the amount of weekly benefits paid? I have heard people say these people are lazy, do not want to work, and are living free. My response to this is, "bull." No one can convince me that a man or a woman would voluntarily choose to live on this meager amount, rather than work even at minimum wage. Of course, there are some, but this is not the majority of the unemployed. People are unemployed simply because they have no job, not because they are the product of laziness and desire to receive unemployment benefits, food stamps or welfare.
>
> Your argument was forceful and direct. You expressed the general voice of the unemployed. It was the truth. Poverty, depression, despair, and rejection are very real and rampant in this abundantly wealthy nation. I think we have forgotten that "charity begins at home." We have forgotten our own children in so many ways. We prosecute and convict people who have stolen money from their church, even though we know they are mentally unstable, and sent them off to prison and throw away the key. Or we send a priest to jail for 2 years because he threw red paint on an abortion clinic. But yet, we allow so many parents to just walk away from the innocent children and never bring them to justice. Anyone who does not believe the extent or the seriousness of this should experience it firsthand.
>
> Mr. Senator, I am a simple woman. I have never been a recipient of unemployment benefits, but now I am unfortunately having to rely on disability benefits, but that is another story. Without going into boring details, I'll try to summarize. I am a survivor of poverty. Born into a middle-class Italian home, married and divorced middle class. At that point, and the ripe old age of 24, I became a single mother of two children with no previous work experience, introduced to poverty, and lived with it then and now. I have successfully raised my children, but not without extreme difficulty and tremendous loss. As a result of years of hard work, long hours, high stress and little personal pleasure, I am left with poor health and little income. My children and I were abandoned by

their father 20 years ago. This in itself is tragic, but what was worse, my Government also abandoned us. I had no counsel to advise me, no agency or group to help me. The judicial system was that of prejudice and ignorance toward women and children to the point of a judge and an attorney both telling me, "Why don't you just give up on trying to get child-support from this man. You are young and attractive. Find someone else." I never received one penny of child support. My children have never received a card or letter or call not even birthdays or Christmas. But he has been allowed to remarry and support another wife and child. Where is the justice in this? There was very little I could do to get myself up on my feet as sole supporter of my family. I, like so many others, was not given the choice. I had to go into the career world and work long hard hours for very little pay. I went from job to job, increasing my work knowledge and experience, seeking better working conditions and benefits, while depriving my children of a full-time mother.

My children and I will never be compensated for their stolen childhood and my familiarity with them. Regardless of what anyone says you cannot have it all. I raised them without health insurance. This should never have occurred—I raised them without child support, day care assistance, or dental coverage. This never should have occurred.

For everything there is a cause and a reaction. My reaction to your speech is that there is not, (after 20 years) significant change in poverty afflicted people today than there was then. There is still a "silent slavery" binding us to a depressed humiliating lifestyle. I do not see a great relief from this situation even after all of this time, and that in itself is depressing. The freedom we all cherish and fight for is not so free for some people. In this day and age there is no man or woman who should be experiencing the same difficulties I did 20 years ago.

She says:

My God we, have sent men to the Moon . . . can't we feed and clothe our children, our young adults, or elderly?

She said:

I love our country and our democratic policies. Equality is for everyone. It has been my experience that poor people do not expect to become millionaires but they do expect to be able to survive. When you cut off aid or assistance in any form, you force poverty to thrive and progress to become stagnant. We desire that the rich remain rich and do not want what is theirs, and common sense dictates that they provide our jobs. This is not to say that we must remain in this status and not attain more. But we must be given the resources to get out of poverty and onto the path of success. It is a mistake to think poverty is a derivative of laziness. Poverty occurs when there is failure. We must decide who is responsible for this failure and correct it.

I realize that poverty does not restrict itself to America. I know other countries are being destroyed by poverty. It overwhelms me to think that this is happening here. The United States of America, where we pay enormous amounts for automobiles and homes. Corporate America does have problems but none so bad that we do without new clothes, autos, or vacations. I know people who pay more for their cologne and perfume than I pay for may house note. I know people who have spent on their vacations what I have earned annually. I wonder if any corporate position employee would take a cut in their salary to afford a job for one unemployed person. Have we lost all generosity and concern? Or is it because we do have a democratic policy of "it's here for everyone". I got mine you just have to get yours. Some of us would not want it any other way, but we all need help at one point. My grandparents left their country and all of their wealth to come to America where "the streets were lined with gold". They of course were optimistic. I wonder what their opinion would be now.

Mr. Senator, please continue to fight for the rights of the poor and the middle class. The rich have their own defenders. If the White House and all Government heads could experience the actions of poverty, I know there would not be a debate on unemployment benefits. Poverty, depression, and despair are as real as wealth, progress, and success. And all are thriving in this "land of plenty". Poverty preys on the helpless, it strips a "natural" existence and lifestyle from whomever it lives with. We have not escaped the system that holds us with "golden handcuffs." Children do go to bed hungry. Children and parents alike do suffer. Most of our elderly are poor.

She then goes on to say:

Please continue to voice your opinion. Maybe if you do, someone will hear and join in your efforts to battle and abolish the slavery of poverty.

She asks that.

She says:

I pray you can encourage a movement to rebuild America, this wonderful and blessed Nation, "one Nation under God with liberty and justice for all." There must be pride in employment and success and shame in poverty and despair. No one, anywhere should be branded with the effects of poverty; especially in the midst of such great opportunity and wealth.

And she then adds down at the bottom her salutation and signoff and she gives two quotations, one from Benjamin Franklin, who she quotes having said "Poverty often deprives a man of all spirit and value; it is hard for an empty bag to stand upright." Then she quotes Confucius having said, "In a country well governed, poverty is something to be ashamed of. In a country badly governed, wealth is something to be ashamed of."

This woman, who took the time to write this letter and obviously has put her ideas forth in a very thoughtful and compelling way, is an important part of the story of America today.

Just a short time back, a day or two ago I read into the RECORD a column from a writer for the Detroit Free Press who was here in Washington, DC, to cover some hearings, and was commenting on all the homeless people she observed out on the streets and in hopeless situations here in the District of Columbia and how struck and moved she was by how widespread that problem is here in our Nation's Capital.

We have got in Michigan tonight some 170,000 unemployed workers who have been unemployed for 7 months and exhausted their unemployment benefits and need extended unemployment benefits. We passed that legislation twice. The President has refused twice, once with a veto, to let that take effect.

Those people are out there and their children in circumstances much like this woman from Alabama has described tonight. And they are our fellow citizens. They are in their circumstances not because they want to be in those circumstances. I have talked with hundreds upon hundreds of unemployed workers. The thing they want most in life is to go back to work. But there is no work to be had.

The data this week from the Federal Reserve indicates that the recession is still with us and it is getting worse in certain areas of the country. In my home State of Michigan the unemployment rate has just gone up to 9.7 percent. And there is no plan by our Government today to get this economy turned around and moving upward in a strong way.

Yes, the administration has a plan for Mexico, with the free-trade agreement with Mexico. There is a plan for Kuwait. A plan the other day was put forward that I cited on the floor now for Cambodia. And there is a plan for China. And a plan for the Soviet Union, what is left of it. No plan for America.

I listened to the President today, and he had some things to say about the Congress. I did not hear anything said about what we do to get the economy going, about what we do to get people back to work, or how we respond to the problem of abject poverty and despair in the lives of those people in our country that literally do not have enough money to get by and no way under current circumstances to earn a living.

The other day on this floor I brought an article from the Detroit News, a story about a woman named Cynthia Fyfe, a single parent like this woman who has written to me from Alabama. She does work, she makes a modest income, lives in a house trailer, she has $3,000 of accumulated medical bills that she cannot afford to pay. She needs health care coverage beyond what she has.

But what was so striking about that article about Cynthia Fyfe was the picture of her 6½-year-old son, a little fellow in the picture with a pair of eyeglasses on, and he has no health insurance, not a penny of health insurance, because she cannot afford it, and because this country and this Government of ours does not care enough about that young boy and millions more like him to see to it that he has health insurance coverage.

Every child in Japan has health insurance coverage. Every child in Germany has health insurance coverage. Every child in England has health insurance coverage. Every child in Canada has health insurance coverage. But millions of children in America tonight have no health insurance coverage and many are in circumstances such as this

woman has described, where there is not even enough food on the table so that they can be well fed before they go to bed for the night.

What kind of a country are we to allow those conditions to exist? Is it that these people do not matter? Is it that they just do not matter and we think of them the way we think of other things in a throwaway society? We get a takeout meal somewhere with plastic knives and forks and a paper plate and we discard it after we eat. Do we just discard people? People that we do not know but who are flesh and blood like us, are Americans like us, have feelings and concerns and needs as we have them.

You know, I have said before on the health insurance issue, the top officials in this Government of ours all have health insurance. The Senate certainly does for ourselves and our families. The President, the Vice President, their families, the Cabinet officers, all have Government-provided health insurance. I have asked the question: What would happen if that Government-provided health insurance for our top officials were suddenly to disappear? Let us say it would just disappear without warning. How long would it take for the President to have a proposal up here to reestablish that health insurance of the top officials in our Government? A few hours? I am sure the proposal would be up here the same day.

Now why can we not get a proposal up here on a health insurance plan for the whole country like every other modern nation has? What is taking so long?

Ronald Reagan got elected President and George Bush as Vice President in 1980. So they have had 1981, 1982, 1983, 1984, 1985, 1986, 1987. And then in 1988, Ronald Reagan left and George Bush took DAN QUAYLE as his Vice President and it has now been 1989, 1990 and we are almost through 1991. Now that is 11 years.

How long does it take to develop a health insurance program? Eleven years is long enough and it is really outrageous that they refuse to address that issue to help people in this country like this single mother who has lived a life of grinding poverty to raise her children, who has written this letter to me from the State of Alabama.

People in this country deserve more than that and they deserve some leadership, some leadership on problems that affect people here in this country, in the United States. We do not elect Presidents of this country to be President of the world. We elect them to be President of this country and to pay attention to the needs of this country and to help the people of this country get ahead.

What would it mean if we had people in our society who have good health care, both so that serious illness can be prevented but when it occurs it can be cured and people can get well? People that are well and healthy are productive people. They are able to work, they are able to provide for themselves, and they are able to provide for the economic strength of the country.

We need strong people and healthy people to have a strong country. We cannot just have one class of people over here that are strong and healthy, that have health care, and another 37 million over here, which is the estimated number that have no health care, and say that does not matter. Because that hurts America. That makes us weaker than we should be as a nation. And it is also inhumane and indecent. It is indecent.

Those that live in circumstances of great privilege, some of it coming at the behest of the Government, have some responsibility to look around them in this country and see what is happening to others and to see the people that have been left out or thrown out to the side, and particularly the unemployed workers who are out of work through no fault of their own. Many of them are out of work because of voodoo economics, because Reaganomics has gone haywire and left this country now with massive debts—Federal budget deficits, trade deficits. From all the rampant speculation of the 1980's, the banking system is in trouble. There are problems all around the landscape.

But most of the victims had nothing to do with it. The people that are out of work tend to be the people who were not the ones setting that course and making those decisions. They just happened to be the ones that are asked to pay the price. We need an economic growth plan for America.

You know, again, when I saw the other day that the administration had finally decided to take an economic action, finally found a problem worthy of a response, something they felt so strongly about, I tore it off the ticker tape out here and brought it in to read to the Chamber to show that they found something to move on in the economic area. And it was economic assistance, yes, for Cambodia. It was not economic assistance for Detroit or Pontiac or Philadelphia or Cleveland or the other cities across this country, both the large cities and the rural areas that need help. No, that was help for Cambodia. Every day it is another country.

How do we get to focus on this country? How do we get to focus on the basic human needs in this country?

The occupant of the chair has fought for years for a decent child care program in this country because there are so many working parents today trying to make a living, both couples and single parents. And they have children that have day care needs and they are not being fed properly because we have not addressed that problem as a nation.

Well, why is that not an important problem? Why isn't what is happening to our children when their parents are working a key problem to America? It is. It is. And those who have money and are well-situated in our society and have the means to address that problem do so. They give it a top priority.

But what about the rest of the people in the country who do not have the money and do not have the available facilities? What do they do? Their kids suffer. They live with the anxiety. They try to make ends meet. We need that health care program in this country to support our working families. We do not have it and we have essentially no recognition of the need for it from this administration. This administration lives up on a very high, lofty, elitist plane. Life is pretty good up there—Government supplied health care, lots of other things. And the problems down here where average people live are very remote, very remote.

I suggested the other day that the Secretary of Labor ought to take the President and go out and visit some unemployment offices. We have seen some trips, some photo ops. The Grand Canyon was one, and there have been some others. You have not seen any to an unemployment office, though, have you? They do not want to go look that problem in the eye. Maybe if they did, they would do something about it.

In fact, I think that is what would happen. I think they would be conscience-stricken and I think that the thinking would change and the President would turn away the advice of the people in the inner circle and say, "We are going to make these unemployment benefits available to the people of the country. These extended benefits are needed. The $8 billion in the fund is going to be made available to help these people now so they could provide for themselves in desperate circumstances, and, yes, feed and clothe their children." I think he would come to that decision if that problem was right in front of his nose.

I have enough faith in this President in terms of his human feeling, knowing him as I do, that I think that would be his response if they saw this problem at point blank range.

But Presidents get too far removed. They get taken up to an elevated plane and then all of the inner circles say, "Well, don't worry about that problem." or "That problem will reverse itself. It will go away. We can't respond to that." There are a million examples, none of them valid. No, it is time to help the people of America.

This woman out in Alabama, I will bet she has worked as hard to build America as anybody in this administration or anybody in this Senate. In fact, I will bet she has worked harder than many of us and gotten very little for it. It is time for a little fairness in America.

When you go back and read our founding documents, the whole concept was caring about everybody. "Life, liberty, and the pursuit of happiness" was not just for those in the top income tiers. It was supposed to be for everybody. We have gotten away from that. We have walked away from our own people. This administration has walked away from the people of this country, in my opinion.

That is what this woman is writing about. I do not know if we can get things turned around or not. Sometimes I think the privileged class and the vested interests have such a grip on this Government it almost seems impossible to break it.

We need a health care program. We should enact one. We should do it before the election of 1992. And if the President does not want to get moving on this issue, then he ought to move out of the way and let somebody else do it because we need to have it done now, not some other time down the road after a lot of sick people have died because they did not get the care they needed.

We need an economic plan, not for Cambodia, but for America. We need them to get moving on that issue. I know there are a lot of foreign trips coming up. I was reading about it in the paper today. There are going to be a lot of scenes out at Andrews Air Force Base as we are all waving as the President takes off to go around the world and look at some of these trouble spots and see what can be done. And we ought to try to be a constructive force in the world.

There is a role for foreign policy. I do not want to be misunderstood on that point. But it cannot be all foreign policy while America is going down the drain. We have problems here at home to solve and people tonight that are looking for leadership and who need help from our Government—from our Government and from our leaders. And it is time we did something about it on these fundamental issues. It is time to extend the unemployment compensation benefits. It is time to pass a national health insurance plan that covers everybody in the country, and very particularly the children in America who have no health insurance. And we need a jobs strategy, a jobs program. People need to work. People want to work. The Nation needs to have our people at work.

There are all kinds of things that need to be done. We need more housing we need more highways, we need more mass transit, we need more teachers, we need more jobs retraining programs, we need more capital investment in our plants, we need more efforts to strengthen small business and to help our farmers survive. There are any number of things to concentrate on if we can just get our attention off the rest of the world for a long enough period of time to concentrate on what is needed right here in the United States of America.

Our people deserve a recognition of the problems that they are facing, and they deserve a plan. That is what leaders are supposed to do, is look ahead, see what is needed, build a plan, a plan that everybody can understand and be part of and that, in the end, the results of the plan are good for everybody.

It is one for all and all for one. That is what America is supposed to be about. We talk about national teamwork. That is what we mean—not leaving some behind but finding a way to take everybody ahead.

In wartime when people are wounded on the field of battle we do not leave them there. We do not leave them there. We go and we help them. And we see to it that they get the assistance that they need. If we are driving down the road and we pass the scene of an accident on the highway and somebody is laying out by the side of the road in desperate need we do not just drive on by. We stop and we get out and we help. And it does not matter who it is. It is not somebody we know—it is whoever it happens to be. We stop and we get out and help because it is the decent and humane thing to do.

But America today is driving right on by the people of our society who desperately need help: the unemployed workers who have exhausted their unemployment benefits, the people without health care. This Government today is driving right on by. And it is not right. It is not right.

This concentration on solving all the problems around the world and ignoring the problems at home, here at home, has to stop. And if this administration cannot figure it out, then it is time that they leave and let some new people come in who understand that need and who are willing to go to work on it.

We need a health care plan in America, and we need it now.

These are the issues that we ought to be discussing and forcing action on.

I want to thank this lady from Alabama for taking the time and being so willing to bare her soul, as she was in this letter to me. I appreciate receiving this letter more than I know how to express. And I want her to know, and others like her, that we can do something about these problems. Some of us intend to do something about these problems, and we are going to persist with those efforts until we accomplish them.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President and Members of the Senate, I just received a series of reports on the current status of the negotiations involving the civil rights bill and have personally been involved in some of the negotiations earlier this evening. I have also discussed the matter with the distinguished Republican leader, and it is my conclusion that no further action on the bill is possible this evening. The matter has reached a stage on one of the major and controversial issues that a conference of Democratic Senators will be necessary to consider and react to the most recent status, and I am calling such a conference for 9:30 a.m. tomorrow in room S-211 of the Capitol. All Senators will be individually notified by members of the staff, but I hope all Senators will be able to attend that meeting.

Following that, it is my expectation the Senate will come into session at or slightly after 10:30 tomorrow morning, at which time I expect we will take up the bill and that subject, either in the form of an understanding that has been reached with respect to that provision of the bill or, if no agreement is reached, in debating the competing points of view with respect to that provision.

I am not able to say at this time what will occur after we come in tomorrow morning because I do not know what the result of the conference and the reaction will be to the current status of the negotiations. So Senators should be aware that action in the Senate will be possible tomorrow.

I have discussed with the distinguished Republican leader the possibility of setting up a schedule for handling other aspects of the bill tomorrow and Monday and hope that fairly early tomorrow we will be able to reach an agreement on how best to proceed on Monday. But Senators should be aware, and I now announce, that there will be votes on Monday after 5 p.m. I repeat, there will be votes on Monday after 5 p.m. and Senators should plan on that and be present at that time. That is a certainly as of this time.

I am not able to make a definitive statement with respect to tomorrow for reasons just stated.

I believe that the delay and the lengthy period of inactivity in the Senate has been appropriately justified under the circumstances. As the distinguished Republican leader has noted several times on the Senate floor, occasionally we save time by taking time from our session to permit those who would otherwise be engaged in debate on the Senate floor to engage in negotiations in private and ultimately reduce the length of time for consideration of a bill. We have not reached that stage yet. I hope we will.

In any event, we have now reached the point where I think the private negotiations have been about completed. The question is whether they will be carried forward to agreement or whether we will simply reach a point where no agreement is possible and we will proceed to resolve them here on the Senate floor.

Mr. President, I invite my distinguished colleague to make any comments that he may wish to on the points I have just made.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. If the majority leader will yield, the majority leader correctly stated what the circumstances are at the present time. I obviously hope that the caucus will be positive. We had a caucus this morning to discuss—we had not gotten as far as they have gotten this evening. I commend all Senators who have been participating all day long, Senator DANFORTH, Senator KENNEDY, Senator JEFFORDS, Senator GRASSLEY, the majority leader, and others, and also Mr. Boyden Gray, White House counsel, who came up here at 11 o'clock this morning for a 45-minute meeting and is still in my office, and to his staff and members of the staff on both sides because they have been working.

My view is that progress has been made. My view is that a deal is within our grasp. But in any event it certainly should be discussed, and we may be discussing it ourselves again tomorrow. So I think the action is appropriate.

As I understand, on Monday there is a good likelihood that the Grassley proposal would be debated and voted upon Monday evening.

Mr. MITCHELL. Yes; that is my hope and expectation.

It may well be that we will end up voting on Monday evening on a matter that will be discussed tomorrow as well. That I will be in a position to make an announcement on tomorrow following the conference and following further consultation with the Republican leader.

Mr. President, just to repeat my earlier announcement, there will be a caucus of Democratic Senators at 9:30 a.m. in room S–211, and all Democrat Senators will be individually notified of that meeting in addition to the announcement that I am now making.

Furthermore, we will have an announcement with respect to the schedule thereafter, sometime after that conference, and after I have the opportunity to consult further with the Republican leader.

There will definitely be votes on Monday after 5 p.m., and I will be sending a letter to all Senators and making an announcement with respect to the voting schedule for the remainder of this session sometime in the next day or two.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 102–15

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with Panama on Mutual Assistance in Criminal Matters (Treaty Doc. No. 102–15) transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Republic of Panama on Mutual Assistance in Criminal Matters, with Annex and Appendices, signed at Panama on April 11, 1991. I transmit also, for the information of the Senate, the Report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including members of drug cartels, ''white collar criminals,'' and terrorists. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the execution of requests for searches and seizures; (4) the serving of documents; and (5) the provision of assistance in locating, tracing, immobilizing, seizing and forfeiting proceeds of crime, and restitution to the victims of crime.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *October 24, 1991.*

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:45 a.m. on Friday, October 25; that following the prayer, the Journal of the proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 11:30 a.m. with Senators permitted to speak therein with the following Senators to be recognized for the time specified: Senator WELLSTONE for up to 10 minutes, Senator WIRTH for up to 15 minutes, Senator AKAKA for up to 10 minutes, and Senator GORE for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10:45 A.M.

Mr. MITCHELL. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 8:19 p.m., recessed until Friday, October 25, 1991, at 10:45 a.m.

NOMINATIONS

Executive nominations received by the Senate October 24, 1991:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

KEVIN E. MOLEY, OF LOUISIANA, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE CONSTANCE HORNER, RESIGNED.

U.S. INTERNATIONAL TRADE COMMISSION

PETER S. WATSON, OF CALIFORNIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2000, VICE SEELEY LODWICH, TERM EXPIRING

THE JUDICIARY

JIMM LARRY HENDREN, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS VICE G. THOMAS EISELE, RETIRED

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be brigadier general

COL. RICHARD A. CHILCOAT, xxx-xx-x... U.S. ARMY.
COL. EDWARD L. ANDREWS, xxx-xx-x... U.S. ARMY.
COL. THOMAS E. SWAIN, xxx-xx-x... U.S. ARMY.
COL. JOHN A. VAN ALSTYNE, xxx-xx-x... U.S. ARMY.
COL. ARTHUR T. DEAN, xxx-xx-x... U.S. ARMY.
COL. ROBERT L. HERNDON, xxx-xx-x... U.S. ARMY.
COL. ROBERT S. COFFEY, xxx-xx-x... U.S. ARMY.
COL. RALPH V. LOCURCIO, xxx-xx-x... U.S. ARMY.
COL. DANIEL M. KELLEHER, xxx-xx-x... U.S. ARMY.
COL. DAVID K. HEEBNER, xxx-xx-x... U.S. ARMY.
COL. HOWARD J. VON KAENEL, xxx-xx-x... U.S. ARMY.
COL. MORRIS J. BOYD, xxx-xx-x... U.S. ARMY.
COL. ROBERT R. HICKS, JR., xxx-xx-x... U.S. ARMY.
COL. JOHN P. ROSE, xxx-xx-x... U.S. ARMY.
COL. LARRY R. ELLIS, xxx-xx-x... U.S. ARMY.
COL. DONALD B. SMITH, xxx-xx-x... U.S. ARMY.
COL. LAWSON W. MAGRUDER, III, xxx-xx-x... U.S. ARMY.
COL. STEWART W. WALLACE, xxx-xx-x... U.S. ARMY.
COL. RUSSELL L. FUHRMAN, xxx-xx-x... U.S. ARMY.
COL. DAVID H. HICKS, xxx-xx-x... U.S. ARMY.
COL. MONTGOMERY C. MEIGS, xxx-xx-x... U.S. ARMY.
COL. CHARLES G. SUTTEN, JR., xxx-xx-xxx... U.S. ARMY.
COL. JAMES W. BODDIE, JR., xxx-xx-x... U.S. ARMY.
COL. JAMES M. WRIGHT, xxx-xx-x... U.S. ARMY.
COL. BILLY K. SOLOMON, xxx-xx-x... U.S. ARMY.
COL. PAUL J. KERN, xxx-xx-x... U.S. ARMY.
COL. GERALD P. BROHM, xxx-xx-x... U.S. ARMY.
COL. CHARLES C. CANNON, JR., xxx-xx-x... U.S. ARMY.
COL. HENRY S. MILLER, JR., xxx-xx-xx... U.S. ARMY.
COL. ROGER G. THOMPSON, JR., xxx-xx-x... U.S. ARMY.
COL. JAMES M. LINK, xxx-xx-x... U.S. ARMY.
COL. RANDOLPH W. HOUSE, xxx-xx-x... U.S. ARMY.
COL. JOHN COSTELLO, xxx-xx-x... U.S. ARMY.
COL. CHARLES W. THOMAS, xxx-xx-x... U.S. ARMY.
COL. JOHNNY M. RIGGS, xxx-xx-x... U.S. ARMY.
COL. PETER J. SCHOOMAKER, xxx-xx-x... U.S. ARMY.
COL. JACK P. NIX, JR., xxx-xx-xxx... U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFEC-

TIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

To be lieutenant colonel

LINE OF THE AIR FORCE

MAJ. STEPHEN J. BITTNER, xxx-xx-x... 5/17/91
MAJ. RICHARD W. BURRIS, xxx-xx-x... 7/12/91
MAJ. DEAN A. CUNNINGHAM, xxx-xx-x... 7/13/91
MAJ. PAUL S. DEAVERS, xxx-xx-x... 6/13/91
MAJ. MARK L. DOOLITTLE, xxx-xx-x... 6/21/91
MAJ. TERRANCE R. FEICHTER, xxx-xx-x... 6/26/91
MAJ. MARK E. GOLDSMITH, xxx-xx-x... 7/1/91
MAJ. THOMAS J. HAYNES, xxx-xx-x... 7/8/91
MAJ. BARRY M. JOHNSON, xxx-xx-x... 7/2/91
MAJ. DONALD E. JONES, xxx-xx-x... 7/7/91
MAJ. JAMES D. KELLEY, xxx-xx-x... 6/21/91
MAJ. THOMAS G. LOFLIN, xxx-xx-x... 7/11/91
MAJ. JOHN F. PAINTER, xxx-xx-x... 7/3/91
MAJ. WILLIAM G. PETTIT, JR., xxx-xx-x... 6/11/91
MAJ. ROYCE D. SHIELDS, xxx-xx-x... 7/13/91
MAJ. JOHN S. SMITH, xxx-xx-x... 7/7/91
MAJ. SHERMAN W. SMITH, xxx-xx-x... 6/20/91
MAJ. MICHAEL S. STEWART, xxx-xx-x... 7/26/91
MAJ. DAVID L. WEAVER, xxx-xx-x... 6/30/91

CHAPLAIN CORPS

MAJ. ALBERT C. HITCHCOCK, xxx-xx-x... 5/23/91

BIOMEDICAL SCIENCES CORPS

MAJ. DOUGLAS W. BUTLER, xxx-xx-x... 6/9/91
MAJ. SCOTT GOLDBERG, xxx-xx-x... 6/8/91
MAJ. ROBERT L. SALYER, xxx-xx-x... 6/8/91

MEDICAL CORPS

MAJ. JOHN W. WELCH, JR., xxx-xx-x... 7/14/91
MAJ. JAMES G. WILSON, xxx-xx-x... 7/16/91

DENTAL CORPS

MAJ. KENNETH K. HSU, xxx-xx-x... 7/14/91

IN THE NAVY

THE FOLLOWING NAMED ASTRONAUT FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN UNDER THE PROVISIONS OF ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

To be captain

CDR. MICHAEL ALLEN BAKER, U.S. NAVY, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be lieutenant colonel

JOHNNY R. ABBOTT, xxx-xx-x...
DIANE M. ACURIO, xxx-xx-x...
JOHN A. ADAMS, xxx-xx-x...
JOHN M. ADAMS, xxx-xx-x...
WILLIAM T. ADAMS, xxx-xx-x...
WAYNE C. AGNESS, xxx-xx-x...
BERNARD AIKENS, xxx-xx-x...
DANIEL R. ALEXANDER, xxx-xx-x...
LARRY R. ALLEN, xxx-xx-x...
AVERY V. ALLISON, xxx-xx-x...
LEONARD A. ALT, xxx-xx-x...
STEVEN D. AMACKER, xxx-xx-x...
ROGER A. AMENDE, xxx-xx-x...
CLINTON T. ANDERSON, xxx-xx-x...
EDWARD B. ANDERSON, xxx-xx-x...
EDWIN W. ANDERSON, xxx-xx-x...
RICHARD B. ANDERSON, xxx-xx-x...
SAMUEL W. ANDERSON, xxx-xx-x...
JOHN P. ANDREASEN, xxx-xx-x...
ANDREW A. ANGELACCI, xxx-xx-x...
CHARLES D. ANGLE, xxx-xx-x...
ROBERT M. ANTIS, xxx-xx-x...
DAVID L. APPLIN, xxx-xx-x...
ANTHONY A. ARBUCCI, xxx-xx-x...
JAMES E. ARMSTRONG, xxx-xx-x...
MARTEMAS ARNWINE, xxx-xx-x...
BYRON D. ATHAN, xxx-xx-x...
FRANK G. ATKINS, xxx-xx-x...
WILLIAM R. AULTMAN, xxx-xx-x...
LLOYD J. AUSTIN, xxx-xx-x...
THOMAS A. AUSTIN, xxx-xx-x...
THOMAS G. AYERS, xxx-xx-x...
BRUCE D. BACHUS, xxx-xx-x...
EDWARD J. BAEHR, xxx-xx-x...
JOHN E. BAGGOTT, xxx-xx-x...
BYRON G. BAKER, xxx-xx-x...
CLAUDE P. BAKER, xxx-xx-x...
LARRY G. BAKER, xxx-xx-x...
PHILIP J. BAKER, xxx-xx-x...
HAROLD L. BAKKEN, xxx-xx-x...
MICHAEL D. BARBERO, xxx-xx-x...
JACKSON D. BAREFORD, xxx-xx-x...
TODD C. BARNES, xxx-xx-x...
PHILIP L. BARNETTE, xxx-xx-x...
LLEWELLYN BARRETT, xxx-xx-x...
HOWARD E. BARTON, xxx-xx-x...
JOHN W. BARTON, xxx-xx-x...
ROY B. BARTON, xxx-xx-x...
GARY D. BAULEKE, xxx-xx-x...
KENNETH D. BEATTY, xxx-xx-x...
LENORA H. BECK, xxx-xx-x...
PATRICK J. BECKER, xxx-xx-x...
JOHN M. BEDNAREK, xxx-xx-x...
VANGEORGE BELANGER, xxx-xx-x...
AUSTIN D. BELL, xxx-xx-x...
THOMAS S. BELL, xxx-xx-x...
WILLIAM R. BELL, xxx-xx-x...
STEPHEN BELLENE, xxx-xx-x...
ROBERT T. BELTON, xxx-xx-x...
STEVEN J. BENKUFSKI, xxx-xx-x...
JAMES F. BENN, xxx-xx-x...
BARBARA *. BENNINGTON, xxx-xx-x...
ANDRE L. BENOIT, xxx-xx-x...
DAVID A. BENTLEY, xxx-xx-x...
BRYAN S. BERG, xxx-xx-x...
BRUCE R. BERRY, xxx-xx-x...
GARY W. BERRY, xxx-xx-x...
JOHN H. BERRY, xxx-xx-x...
REGINALD R. BERRY, xxx-xx-x...
LOUIS R. BEST, xxx-xx-x...
DAVID K. BETHEA, xxx-xx-x...
RICHARD T. BIERIE, xxx-xx-x...
GARY D. BIRCHFIELD, xxx-xx-x...
JEFFREY C. BISCHOFF, xxx-xx-x...
GARY M. BISHOP, xxx-xx-x...
JOHN F. BITHOS, xxx-xx-x...
NOLEN V. BIVENS, xxx-xx-x...
WILLIAM BLANKMEYER, xxx-xx-x...
BRADFORD R. BOCK, xxx-xx-x...
CHRISTOPHER BOETIG, xxx-xx-x...
VINCENT E. BOLES, xxx-xx-x...
JOSEPH A. BOLICK, xxx-xx-x...
JERRY R. BOLZAK, xxx-xx-x...
STEPHEN J. BOND, xxx-xx-x...
GLEN M. BONEY, xxx-xx-x...
PAUL M. BONNEY, xxx-xx-x...
ROBERT J. BONOMETTI, xxx-xx-x...
HARLAND M. BORNEMAN, xxx-xx-x...
VICTOR J. BOSKO, xxx-xx-x...
DAVID E. BOUDREAU, xxx-xx-x...
DANIEL J. BOURGOINE, xxx-xx-x...
STEPHEN J. BOURNE, xxx-xx-x...
GEORGE E. BOWERS, xxx-xx-x...
WALTER R. BOWERS, xxx-xx-x...
CARL C. BOWMAN, xxx-xx-x...
RICHARD B. BOWMAN, xxx-xx-x...
DONALD R. BOYD, xxx-xx-x...
HERCHELL A. BOYD, xxx-xx-x...
KENNETH D. BOYD, xxx-xx-x...
RICKY E. BOYD, xxx-xx-x...
ROBERT G. BOYKO, xxx-xx-x...
JOSEPH T. BOYLAN, xxx-xx-x...
EARNEST N. BRACEY, xxx-xx-x...
MICHAEL L. BRACKET, xxx-xx-x...
TIMOTHY J. BRADEN, xxx-xx-x...
EDWARD M. BRADFORD, xxx-xx-x...
CHARLES BRADLEY, JR., xxx-xx-x...
LEON BRADLEY, xxx-xx-x...
RAWSKIA BRADLEY, xxx-xx-x...
MICHAEL J. BRADY, xxx-xx-x...
THOMAS L. BRANZ, xxx-xx-x...
KAY E. BRATZ, xxx-xx-x...
ARTHUR BREITHAUPT, xxx-xx-x...
JOHN F. BREWER, xxx-xx-x...
SHERRILL L. BRINDEL, xxx-xx-x...
GARY L. BRINDLE, xxx-xx-x...
JAMES L. BROOKE, xxx-xx-x...
OTIS M. BROOKS, xxx-xx-x...
DAVID P. BROSTROM, xxx-xx-x...
BILLY D. BROWERS, xxx-xx-x...
BRUCE T. BROWN, xxx-xx-x...
CALVIN E. BROWN, xxx-xx-x...
DONALD A. BROWN, xxx-xx-x...
JOHN R. BROWN, xxx-xx-x...
KENT H. BROWN, xxx-xx-x...
DONALD W. BROWNE, xxx-xx-x...
ROBERT P. BRUMLEY, xxx-xx-x...
HENRY L. BRYAN, xxx-xx-x...
JOEL A. BUCK, xxx-xx-x...
LON L. BUCK, xxx-xx-x...
DAVID J. BUCKLEY, xxx-xx-x...
JOHN E. BULLA, xxx-xx-x...
ANTHONY A. BULLARD, xxx-xx-x...
JAMES R. BURCH, xxx-xx-x...
MICHAEL A. BURKE, xxx-xx-x...
ALFRED E. BURKHARD, xxx-xx-x...
MARTIN V. BURKS, xxx-xx-x...
GARY R. BURROUGHS, xxx-xx-x...
NANCY J. BURT, xxx-xx-x...
JAMES H. BURTON, xxx-xx-x...
RONALD R. BURTON, xxx-xx-x...
MICHAEL J. BUSH, xxx-xx-x...
RALPH E. BUSH, xxx-xx-x...
DAVID K. BUTLER, xxx-xx-x...
JOHN L. BUTLER, xxx-xx-x...
DAVID J. BUZZELL, xxx-xx-x...
KERRY L. CAILTEUX, xxx-xx-x...
MICHAEL P. CALDWELL, xxx-xx-x...
WILLIAM L. CALLAWAY, xxx-xx-x...
EDWARD E. CAMBON, xxx-xx-x...
JOEL W. CAMERON, xxx-xx-x...
DOUGLAS A. CAMPBELL, xxx-xx-x...
MICHAEL J. CAMPBELL, xxx-xx-x...
TERRENCE CAMPBELL, xxx-xx-x...
MICHAEL W. CANNON, xxx-xx-x...
KENTON R. CANNY, xxx-xx-x...
TIMOTHY A. CAPRON, xxx-xx-x...
CHARLES N. CARDINALI, xxx-xx-x...
JOHN A. CARLSON, xxx-xx-x...
JOHN H. CARPENTER, xxx-xx-x...
WALTER R. CARPENTER, xxx-xx-x...
CARL J. CARRANO, xxx-xx-x...
SAMUEL J. CARROLL, xxx-xx-x...
WALTON C. CARROLL, xxx-xx-x...
ROBERT D. CARTER, xxx-xx-x...
CHARLES CARTWRIGHT, xxx-xx-x...
ROBERT L. CASLEN, xxx-xx-x...
DAVID M. CASMUS, xxx-xx-x...
RANDALL W. CASON, xxx-xx-x...
CURTIS R. CEARLEY, xxx-xx-x...
ANTHONY J. CERRI, xxx-xx-x...
WAYNE F. CHALUPA, xxx-xx-x...
MARK R. CHANEY, xxx-xx-x...
JOHN S. CHAPPELL, xxx-xx-x...
THOMAS L. CHARLSON, xxx-xx-x...
JONATHAN P. CHASE, xxx-xx-x...
GEORGE T. CHEROLIS, xxx-xx-x...
GARY R. CHICK, xxx-xx-x...
ELIAS C. CHIN, xxx-xx-x...
ANDREW T. CHMAR, xxx-xx-x...
ROBERT A. CLAGG, xxx-xx-x...
BEN F. CLAWSON, xxx-xx-x...
WILLIAM H. CLECKNER, xxx-xx-x...
ALLEN E. CLEGHORN, xxx-xx-x...
MICHAEL R. CLEMENTS, xxx-xx-x...
RUSSELL CLEVELAND, xxx-xx-x...
JAMES T. CLIFFORD, xxx-xx-x...
STEVEN M. CLIFFORD, xxx-xx-x...
RICHARD A. CLINE, xxx-xx-x...
ROBERT A. CLINE, xxx-xx-x...
WILLIAM CLINGEMPEEL, xxx-xx-x...
WILLIAM E. CLYBURN, xxx-xx-x...
THOMAS M. COBURN, xxx-xx-x...
LEA P. COCHRAN, xxx-xx-x...
CARL A. COCKRUM, xxx-xx-x...
VICTOR COFFENBERRY, xxx-xx-x...
JOHN A. COGLEY, xxx-xx-x...
LEE M. COLAW, xxx-xx-x...
KEVIN T. COLCORD, xxx-xx-x...
DAVID M. COLE, xxx-xx-x...
JOE E. COLLIER, xxx-xx-x...
KENNETH S. COLLIER, xxx-xx-x...
GLYNN C. COLLINS, xxx-xx-x...
VINCENT L. COLLINS, xxx-xx-x...
SCOTT W. COLLISTER, xxx-xx-x...
ROGER L. COLOMBANA, xxx-xx-x...
DARIO A. COMPAIN, xxx-xx-x...
RODNEY E. CONNORS, xxx-xx-x...
THOMAS P. CONNORS, xxx-xx-x...
MICHAEL L. *. CONRAD, xxx-xx-x...
MICHAEL S. CONTI, xxx-xx-x...
MERLE W. CONVERSE, xxx-xx-xx...
DONALD R. COOK, xxx-xx-x...
EMMET E. COOK, xxx-xx-x...
PHILLIP M. COOK, xxx-xx-x...
VIRGIL W. COOK, xxx-xx-x...
OTIS E. COOKSEY, xxx-xx-x...
PATRICK J. COONEY, xxx-xx-x...
DAVID L. COOPER, xxx-xx-x...
DAVID D. COSLOW, xxx-xx-x...
DAVID P. COUGHRAN, xxx-xx-x...
MICHAEL C. COX, xxx-xx-x...
PEDER C. COX, xxx-xx-x...
WILLIAM F. CRAIN, xxx-xx-x...
CHARLES E. CRANK, xxx-xx-x...
ARTHUR G. CRAWFORD, xxx-xx-x...
DARRELL E. CRAWFORD, xxx-xx-x...
ROBERT CREAR, xxx-xx-x...
MICHAEL E. CRIMENS, xxx-xx-x...
CHARLES E. CROSS, xxx-xx-x...
LEON CRUMBLIN, xxx-xx-x...
WILLIA CRUTCHFIELD, xxx-xx-x...
THOMAS R. CSRNKO, xxx-xx-x...
JERRIS L. CUMMINGS, xxx-xx-x...
ERIC R. CUNNINGHAM, xxx-xx-x...
DAVID C. CUTLER, xxx-xx-x...
LYLE D. DAUGHERITY, xxx-xx-x...
CHARLES E. DAVIS, xxx-xx-x...
EDWIN F. DAVIS, xxx-xx-x...
GLENN W. DAVIS, xxx-xx-x...
GREGORY S. DAVIS, xxx-xx-x...
JAMES O. DAVIS, xxx-xx-x...
THOMAS J. DAVIS, xxx-xx-x...
THOMAS R. DAVIS, xxx-xx-x...
JOHN J. DEACON, xxx-xx-x...
ARLIS D. DEAN, xxx-xx-x...
JAMES J. DECARLO, xxx-xx-x...
GREGORY DECHAU, xxx-xx-x...
JOHN DEFREITAS, II, xxx-xx-x...
DANNY L. DEFRIES, xxx-xx-x...
JOHN L. DELONG, xxx-xx-x...
RALPH F. DELOSUA, xxx-xx-x...
GEOFFREY DEMAREST, xxx-xx-x...
THOMAS A. DEMPSEY, xxx-xx-x...
JOHN H. DERTZBAUGH, xxx-xx-x...
PATRICK E. DEVENS, xxx-xx-x...
DEBRA L. DEVILLE, xxx-xx-x...
JACK C. DIBRELL, xxx-xx-x...
MICHELLE L. DICK, xxx-xx-x...
CLIFFORD M. DICKMAN, xxx-xx-x...
FRED E. DIERKSMEIER, xxx-xx-x...
JOHN T. DILLARD, xxx-xx-x...
PETER DISTERLIC, xxx-xx-x...
DAVID R. DOCTOR, xxx-xx-x...
BRUCE J. DONLIN, xxx-xx-x...
JOHN R. DORNSTADTER, xxx-xx-x...
WILLIAM T. DOWNS, xxx-xx-x...
JOSEPH S. DRELLING, xxx-xx-x...
RICHARD B. DRIVER, xxx-xx-x...
PAUL J. DRONKA, xxx-xx-x...
MARCUS G. DUDLEY, xxx-xx-x...

BRIAN J. DUFFY xxx-xx-x...
LEE F. DUFFY xxx-xx-x...
WILLIAM P. DUKE xxx-xx-x...
MICHAEL R. DULANEY xxx-xx-x...
JEFFREY M. DUNHAM xxx-xx-x...
PATRICK C. DUNKLE xxx-xx-x...
MICHAEL L. DUNKLEY xxx-xx-x...
BERNARD J. DUNN xxx-xx-x...
PATRICK Y. DUNN xxx-xx-x...
ROBERT A. DUNN xxx-xx-x...
HENRY A. DURAN xxx-xx-x...
ROBERT E. DURBIN xxx-xx-x...
JOHN A. DURKIN xxx-xx-x...
JAMES C. DWYER xxx-xx-x...
ROBERT L. DYKSTRA xxx-xx-x...
JEFFREY R. EARLEY xxx-xx-xx...
DANIEL R. EDGERTON xxx-xx-x...
CARL EDWARDS, JR xxx-xx-x...
LAWYN C. EDWARDS xxx-xx-x...
PARTHENIA R. ELAM xxx-xx-x...
FRANK D. ELIZONDO xxx-xx-x...
BERNARD E. ELLIS xxx-xx-x...
CHARLES V. ELLIS xxx-xx-x...
MICHAEL W. EMERY xxx-xx-x...
GEORGE W. ENGLAND xxx-xx-x...
DAVID J. ENRIQUEZ xxx-xx-x...
EDWARD J. ERICKSON xxx-xx-x...
JAMES J. ERNZEN xxx-xx-x...
JEAN R. ESTEVE xxx-xx-x...
GREGORY O. EVANS xxx-xx-x...
THOMAS R. EVANS xxx-xx-x...
PAMELA C. EYRE xxx-xx-x...
JOHN R. FABRY xxx-xx-x...
TIMOTHY E. FAIR xxx-xx-x...
PETER T. FARRELL xxx-xx-x...
WILLIAM R. FAST xxx-xx-x...
DENNIS O. FAVER xxx-xx-x...
ALLAN D. FEHLINGS xxx-xx-x...
THOMAS W. FEICK xxx-xx-x...
DONALD V. FERRIER xxx-xx-x...
DANIEL A. FEY xxx-xx-x...
WILLIAM G. FILLMAN xxx-xx-x...
JOHN F. FINAN xxx-xx-x...
PATRICK G. FINDLAY xxx-xx-x...
LEONARD M. FINLEY xxx-xx-x...
JOHN B. FIRER xxx-xx-x...
THOMAS C. FISER xxx-xx-x...
CHARLES M. FISHER xxx-xx-x...
DENNIS FITZSIMMONS xxx-xx-x...
WELDON W. FLAHARTY xxx-xx-x...
WAYNE T. FLEMING xxx-xx-x...
BENJAMIN FLETCHER xxx-xx-x...
RONALD C. FLOM xxx-xx-x...
RICHARD J. FLOOD xxx-xx-x...
LEONARDO V. FLOR xxx-xx-x...
MICHAEL C. FLOWERS xxx-xx-x...
PATRICK J. FLYNN xxx-xx-x...
RONALD M. FONTENOT xxx-xx-x...
DAVID G. FORD xxx-xx-x...
WILLIAM M. FORD xxx-xx-x...
JAMES T. FORESTAL xxx-xx-x...
JAMES A. FORLENZO xxx-xx-x...
RUSSELL S. FORSHAG xxx-xx-x...
CHARLES J. FOWLER xxx-xx-x...
GARY S. FOWLER xxx-xx-x...
ALFRED H. FOXX xxx-xx-x...
CARSON R. FRANCIS xxx-xx-x...
DENNIS J. FRANKEN xxx-xx-x...
CHARLES FRECHETTE xxx-xx-x...
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DOUGLAS C. RAYMOND xxx-xx-x...
GUY E. RAYMOND xxx-xx-x...
STEVEN N. READ xxx-xx-x...
JOHN E. REDFEARN xxx-xx-x...
JOHN V. REDINGTON xxx-xx-x...
MARK J. REDLINGER xxx-xx-x...
DAVID J. REHBEIN xxx-xx-x...
WILLIAM J. REID xxx-xx-x...
JOHN J. REIDT xxx-xx-x...
RONALD G. REPPERT xxx-xx-x...
CHARLES F. REY xxx-xx-x...
ROBERT R. REYNOLDS xxx-xx-x...
JOHN G. RICE xxx-xx-x...
TOMMY L. RICH xxx-xx-x...
RONALD R. RICHARD xxx-xx-x...
RONALD E. RICHARDS xxx-xx-x...
DAVID R. RIDENOUR xxx-xx-x...
JAMES M. RIGSBY xxx-xx-x...
SIDNEY E. RILEY xxx-xx-x...
THOMAS R. RILEY xxx-xx-x...
HARRY S. RITTER xxx-xx-x...
ORLANDO L. RIVERA xxx-xx-x...
JOS RIVERASANABRIA xxx-xx-x...
GITAN J. ROBERTS xxx-xx-x...
JOSEPH A. ROBERTS xxx-xx-x...
RONNIE R. ROBERTS xxx-xx-x...
THOMAS E. ROBERTS xxx-xx-x...
JOHN S. ROBERTSON xxx-xx-x...
JOHN T. RODGERS xxx-xx-x...
JORGE E. RODRIQUEZ xxx-xx-x...
WILLIAM R. ROMANO xxx-xx-x...
MITCHELL S. ROSS xxx-xx-x...
FLORIAN ROTHBRUST xxx-xx-x...
LENEAR ROYER, III xxx-xx-x...
ROOSEVELT RUFFIN xxx-xx-x...
L. C. RUSH, JR xxx-xx-x...
CALVIN L. RUSSELL xxx-xx-x...
DEAN E. RUSSELL xxx-xx-x...
JACK W. RUSSELL xxx-xx-x...
THOMAS P. RYAN xxx-xx-x...
TODD G. SAIN xxx-xx-x...
JOHN S. SAPIENZA xxx-xx-x...
THOMAS B. SARLES xxx-xx-x...
JOHN R. SARVER xxx-xx-x...
OLIN E. SAUNDERS xxx-xx-x...
JOSEPH K. SCHMITT xxx-xx-x...
TERRANCE SCHNEIDER xxx-xx-x...
DENNIS SCHOEPPNER xxx-xx-x...
STEVEN C. SCHRUM xxx-xx-...
ROBERT D. SCHWENNE xxx-xx-x...
JAMES H. SCHWITTERS xxx-xx-x...
MILTON L. SEEKINS xxx-xx-x...
PAUL W. SELF xxx-xx-x...
ROBIN B. SELLERS xxx-xx-x...
MICHAEL J. SHADELL xxx-xx-x...
CHARLES R. SHADLE xxx-xx-x...
DAVID F. SHAFFER xxx-xx-x...
EDWARD C. SHAFFER xxx-xx-x...
TIMOTHY O. SHALLY xxx-xx-x...
RONNY D. SHARP xxx-xx-x...
LAWRENCE SHATTUCK xxx-xx-x...
THOMAS M. SHEA xxx-xx-x...
CLAUDE W. SHIPLEY xxx-xx-x...
STEPHEN E. SHIRES xxx-xx-x...
RACHEL C. SHIVE xxx-xx-x...
HARRY A. SHIVELY xxx-xx-x...
WILLIAM T. SHOCKLEY xxx-xx-x...
PATRICIA A. SIGLE xxx-xx-x...
SHERILYN D. SIGLER xxx-xx-x...
NORRIS E. SILLS xxx-xx-x...
MICHAEL R. SIMONE xxx-xx-x...
ROBERT W. SIMONS xxx-xx-x...
EDWARD J. SINCLAIR xxx-xx-x...
EDWARD M. SIOMACCO xxx-xx-x...
CHARLES R. SIZEMORE xxx-xx-x...
DENNIS M. SKELLY xxx-xx-x...
DARRELL SLONE xxx-xx-x...
CHESTER L. SMITH xxx-xx-x...
FRANK R. SMITH xxx-xx-x...
LESLIE K. SMITH xxx-xx-x...
MICHAEL S. SMITH xxx-xx-x...
ROBERT L. SMITH xxx-xx-x...
ROGER N. SMITH xxx-xx-x...
MARY L. SMULLEN xxx-xx-x...
MICHAEL D. SNYDER xxx-xx-x...

WILLIAM N. SOUSER xxx-xx-x...
KATHLEEN R. SOWER xxx-xx-x...
PAUL C. SPINLER xxx-xx-x...
LAWRENCE G. SPOON xxx-xx-x...
JANICE L. SPRUILL xxx-xx-x...
STEPHEN C. STACEY xxx-xx-x...
RICHARD STAIRHIME xxx-xx-x...
WILLIAM D. STALEY xxx-xx-x...
CYRUS J. STANIEC xxx-xx-x...
ANDREW J. STANLEY xxx-xx-x...
ALAN STANSFIELD xxx-xx-x...
KAREN M. STARK xxx-xx-x...
GREGORY STARKS xxx-xx-x...
LAWRENCE M. STEINER xxx-xx-x...
JIMMY D. STEPHENS xxx-xx-x...
RICARDO E. STEPHENS xxx-xx-x...
DAVID J. STERNBERG xxx-xx-x...
THOMAS G. STERNER xxx-xx-x...
DONALD J. STEVENSON xxx-xx-x...
MICHAEL J. STEWART xxx-xx-x...
GARY W. STINNETT xxx-xx-x...
CHRISTOPHER STJOHN xxx-xx-x...
PATRICIA STONEHAM xxx-xx-x...
SAMUEL K. STOUFFER xxx-xx-x...
JOEY STRICKLAND xxx-xx-x...
ROBERT A. STROM xxx-xx-x...
MICHAEL C. STUTT xxx-xx-x...
HOWARD T. STYRON xxx-xx-x...
HENRY W. SUCHTING xxx-xx-x...
PARRIS M. SUGG xxx-xx-x...
STEVEN G. SWANSON xxx-xx-x...
DUANE W. SWEENEY xxx-xx-x...
PAUL S. SWEET xxx-xx-x...
TED W. SWENSON xxx-xx-x...
RICHARD E. SWISHER xxx-xx-x...
BRUCE A. SYDNOR xxx-xx-x...
NICHOLAS J. SZASZ xxx-xx-x...
JOHN W. TALBOT xxx-xx-x...
CARYL T. TALLON xxx-xx-x...
AVELINO P. TAMAYO xxx-xx-x...
WILLIAM F. TANNER xxx-xx-x...
LAREN D. TARBET xxx-xx-x...
RANDAL G. TART xxx-xx-x...
STEPHEN T. TATE xxx-xx-x...
RANDY D. TATUM xxx-xx-x...
FRANK D. TAYLOR xxx-xx-x...
JAMES R. TAYLOR xxx-xx-x...
ROBERT H. TAYLOR xxx-xx-x...
MERDITH W. TEMPLE xxx-xx-x...
JOSEPH J. TENIS xxx-xx-x...
GENE J. TENUTA xxx-xx-x...
JAMES E. TERLECKY xxx-xx-x...
CLENNY E. TERRELL xxx-xx-x...
CAROL M. TERRY xxx-xx-x...
DAN E. TESTERMAN xxx-xx-x...
HARRY G. THIGPEN xxx-xx-x...
WILLIE L. THIGPEN xxx-xx-x...
ALVIN J. THOMAS xxx-xx-x...
DANIEL R. THOMAS xxx-xx-x...
DAVID A. THOMAS xxx-xx-x...
DAVID J. THOMAS xxx-xx-x...
JAMES H. THOMAS xxx-xx-x...
LAURENCE E. THOMAS xxx-xx-x...
JERRY L. THOMPSON xxx-xx-x...
LEWIS H. THOMPSON xxx-xx-x...
MARK C. THOMSON xxx-xx-x...
ROBERT L. THOMSON xxx-xx-x...
WALLACE G. THOMSON xxx-xx-x...
HARRY C. THORNSVARD xxx-xx-x...
RUSSEL P. THURBER xxx-xx-x...
JAMES R. TIREY xxx-xx-x...
DAVID E. TITUS xxx-xx-x...
DAVID R. TOWNSEND xxx-xx-x...
JOSEPH D. TOWNSEND xxx-xx-x...
LOUIS A. TRAVERZO xxx-xx-x...
GLENN C. TRAWEEK xxx-xx-x...
HENRY P. TRIPLETT xxx-xx-x...
WILLIAM J. TROY xxx-xx-x...
REID J. TRUMMEL xxx-xx-x...
THOMAS E. TUCKER xxx-xx-x...
LARRY L. TURGEON xxx-xx-x...
JEROLD E. TURNER xxx-xx-x...
STEVEN G. TURNER xxx-xx-x...
THOMAS G. TURNING xxx-xx-x...
BENJAMIN TYLER, JR xxx-xx-x...
LEE A. VANARSDALE xxx-xx-x...
DEBORA VANDORMOLEN xxx-xx-x...
DAVID M. VANDYKE xxx-xx-x...
JOHN M. VANDYKE xxx-xx-x...
FREDERICK VARNADO xxx-xx-x...
JOSE A. VASQUEZ xxx-xx-x...
TROY E. VAUGHN xxx-xx-x...
EDWIN F. VEIGA xxx-xx-x...
JAMES L. VELKY xxx-xx-x...
LESLIE H. VERDE xxx-xx-x...
DEWEY F. VEST xxx-xx-x...
JOHN D. VOSILUS xxx-xx-x...
CHARLES M. VUCKOVIC xxx-xx-x...
ROBERT L. WAERS xxx-xx-x...
MARK A. WAGNER xxx-xx-x...
GEORGE M. WALKER xxx-xx-x...
GREGORY D. WALKER xxx-xx-x...
KENNETH M. WALKER xxx-xx-x...
SAM S. WALKER, II xxx-xx-x...
STEVEN H. WALLACE xxx-xx-x...
THOMAS C. WALLACE xxx-xx-x...
THOMAS H. WALLACE xxx-xx-x...
CHARLES G. WALLS xxx-xx-x...
GERARD M. WALSH xxx-xx-x...
RAYMOND W. WALSH xxx-xx-x...
TIMOTHY G. WANSBURY xxx-xx-x...
BARRY M. WARD xxx-xx-x...
JAMES E. WARD xxx-xx-x...
KATHERINE L. WARD xxx-xx-x...
HOWARD L. WARE xxx-xx-x...
JOHN R. WARNER xxx-xx-x...
VOLNEY J. WARNER xxx-xx-x...
DAVID W. WASHECHEK xxx-xx-x...
JOSEPH E. WASIAK xxx-xx-x...
RICHARD WATERHOUSE xxx-xx-x...
ROBERT L. WATERS xxx-xx-x...
ALAN C. WATTS xxx-xx-x...
FRANKLIN B. WEAVER xxx-xx-x...
ROBERT F. WEBB xxx-xx-x...
WILLIAM H. WEBB xxx-xx-x...
LYNN E. WEBER xxx-xx-x...
ROBERT E. WEGMANN xxx-xx-x...
THOMAS L. WEIR xxx-xx-x...
DOYLE J. WEISHAR xxx-xx-x...
NANCY J. WEISZ xxx-xx-x...
GEORGE E. WELCH xxx-xx-x...
RICHARD S. WELCH xxx-xx-x...
JAMES S. WELLER xxx-xx-x...
BILLY E. WELLS xxx-xx-x...
DANIEL E. WEMHOFF xxx-xx-x...
JAMES WERKMEISTER xxx-xx-x...
LARRY R. WEST xxx-xx-x...
SCOTT G. WEST xxx-xx-x...
WILLIAM C. WEST xxx-xx-x...
LYNN A. WESTBROOK xxx-xx-x...
JOHN S. WESTWOOD xxx-xx-x...
JOHN L. WHISLER xxx-xx-x...
DAVID A. WHITE xxx-xx-x...
KENNETH C. WHITE xxx-xx-x...
LONNIE R. WHITE xxx-xx-x...
WILLIAM T. WHITESELL xxx-xx-x...
DAVID L. WILLIAMS xxx-xx-x...
FREDERICK WILLIAMS xxx-xx-x...
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PAUL M. WILSON xxx-xx-x...
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RANDALL W. WITHROW xxx-xx-x...
DENNIS C. WOESTE xxx-xx-x...
EDWARD WOLCOFF xxx-xx-x...
MICHAEL H. WOOD xxx-xx-x...
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LEONARD S. WOODY xxx-xx-x...
EDWARD J. WRIGHT xxx-xx-x...
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RANDY C. WRIGHT xxx-xx-x...
THOMAS H. WRIGHT xxx-xx-x...
ANDREW E. WYNARSKY xxx-xx-x...
MICHAEL T. YATES xxx-xx-x...
JOHN A. YINGLING xxx-xx-x...
KENNETH M. YOUNGDH xxx-xx-x...
RICHARD E. ZAK xxx-xx-x...
THOMAS ZIGORIS xxx-xx-...